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City of Sierra Madre

8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10
11 In the Matter of Petition of:

12 City of Sierra Madre from California Regional
13 Water Quality Control Board, Los Angeles
Region, Waste Discharge Requirements for
14 Municipal Separate Storm Sewer System (MS4)
Discharges within the Coastal Watersheds of Los
15 Angeles County, Except Those Discharges
Originating from the City of Long Beach MS4,
16 Order NO. R4-2012-0175, NPDES Permit No.
CAS004001.

PETITION FOR REVIEW

[WATER CODE § 13320; CAL. CODE REGS.
TITLE 24 § 2050]

REQUEST FOR IMMEDIATE STAY

[WATER CODE § 13321; 23 CAL. CODE
REGS. §2053]

[DECLARATIONS IN SUPPORT OF STAY
FILED UNDER SEPARATE COVER]

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1 Petitioner, City Of Sierra Madre ("City" or "Petitioner"), respectfully requests that the State
2 Water Resources Control Board ("State Board") review California Regional Water Quality Control
3 Board, Los Angeles Region, Waste Discharge Requirements for Municipal Separate Storm Sewer
4 System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except Those
5 Discharges Originating from the City of Long Beach MS4, Order NO. R4-2012-0175, NPDES Permit
6 No. CAS004001 issued on November 8, 2012 ("Permit). Petitioner also requests that the State Board
7 issue an immediate stay on the Permit pursuant to 23 Cal. Code Regs. §2053.
8

9 **I. Name of Address of Petitioner**

10 Ms. Elaine Aguilar
11 City Manager
12 City of Sierra Madre
13 232 West Sierra Madre Blvd.
14 Sierra Madre CA 91024
15

16 **II. Specific Action of the Regional Board for which Review is Sought**

17 City requests review of the Permit, a copy of which is attached hereto as Exhibit A.
18

19 **III. Date of Regional Board's Action**

20 The Los Angeles Regional Water Quality Control Board ("Regional Board") issued the Permit
21 on November 8, 2012.
22

23 **IV. Statement of Reasons the Action Was Inappropriate or Improper**

24 The Permit generally contains suitable approaches to improve water quality in the Coastal
25 Watersheds in Los Angeles County. However, as outlined below, certain Permit provisions are
26 inappropriate and warrant review by the State Board. Specifically, the Permit is improper because it:
27
28

- 1 a) Mandates the City immediately comply with numeric Receiving Water Limitations
2 (“RWLs”) instead of allowing for an iterative/adaptive management approach to
3 address the TMDLs and non-TMDS water quality problems. The immediate
4 compliance requirement exposes Petitioner to potential liability from both third
5 party lawsuits and Regional Board enforcement, even if the City has implemented
6 best management practices in an effort to meet the RWL limitations;
- 7
- 8 b) Sets strict numeric limits for final TMDL WLAs instead of using BMPs to control
9 and abate storm water discharge. Such strict numeric limits are infeasible because
10 storm water quality varies widely from storm to storm, place to place and facility to
11 facility and, thus, it is unreasonable to require all events to be below a numeric
12 value as opposed to addressing the WLAs via BMPs;
- 13
- 14 c) Imposes joint liability on Petitioner for commingled MS4 discharges and places the
15 burden on the City to prove its innocence rather than on the enforcement
16 authority to prove the violation;
- 17
- 18 d) Imposes onerous inspection requirements on the City, by requiring it to inspect
19 and track whether new development meets the Low-Impact Development
20 requirements and provides no funding mechanism for this new mandated duty;
21 and,
- 22
- 23 e) Imposes infeasible deadlines to prepare the notice of intent to develop a Watershed
24 Management Plan (“WMP”) and to prepare the draft WMP for review and
25 comment by the Regional Board.
- 26

27 As discussed in Section VII below, each of these provisions impose obligations on the
28 Petitioner not mandated by law and, thus, review by the Board is warranted.

1
2 **V. How Petitioner is Aggrieved**

3 The Petitioner is a permittee under the Permit and is responsible for compliance with it.

4 Accordingly, Petitioner is aggrieved in the following manners:

- 5 a) Petitioner is exposed to an immediate risk of potential liability once the Permit
6 goes into effect even if it engages in an adaptive management approach (iterative
7 process) to address any exceedances in the RWL;
- 8 b) Petitioner is required to expend the limited resources it has to avoid numeric
9 specific exceedances of non-TMDL pollutants with the same priority s TMDL
10 pollutants;
- 11 c) Petitioner is required to prove its innocence when any exceedance occurs by
12 demonstrating that it did not cause the exceedance of the given pollutant, an
13 impossible burden given data limitations;
- 14 d) It is required to implement an onerous inspection program to inspect new
15 development for compliance with the Low-Impact Development (“LID”)
16 requirements, which requirements use engineered and biological solutions to
17 reduce the storm water discharged from the site. Inspection of each of these LID
18 requirements may only be effectively done during a storm event. This requirement
19 amounts to an unfunded mandate;
- 20 e) It has insufficient time to evaluate the issues necessary to adequately prepare the
21 notice of intent to develop a WMP or an EWMP, which must specify the applicable
22 pollutants and TMDLs, and identify watershed control measures to be
23 implemented concurrently with the development of the program. Thus, even if
24 Petitioner proceeds with all due diligence to accomplish the task, the risk that it
25 will not be able to meet the infeasible deadline and, therefore, be deemed out of
26 compliance, is great; and,
- 27 f) It has insufficient time to develop a draft WMP or an EWMP, which must
28 incorporate input from stakeholders via the permit-wide technical advisory

1 committee and which must go through several public hearing and workshop
2 processes. Thus, even if Petitioner proceeds with all due diligence to accomplish
3 the task, the risk that it will not be able to meet the infeasible deadline and,
4 therefore, be deemed out of compliance, is great.

5 To the extent any of the foregoing provisions are improper, Petitioner should not be exposed
6 to lawsuits to enforce these provisions.

7 **VI. The Action Petitioner Requests the State Board to Take**

8 The Petitioner request that the State Board issue an order:

- 9 a) To amend the Permit's RWL language to allow an iterative process so that the City
10 may operate in good faith with such process without exposure to unwarranted third
11 party or Regional Board enforcement actions or, in the alternative, to direct the
12 Regional Board to similarly amend the Permit's RWL language;
- 13 b) To amend the Permit to use non-numeric water quality based effluent limitations
14 consistent with the Watershed Management Program for final WLAs in lieu of
15 strict numeric effluent levels;
- 16 c) To amend the Permit to state that implementation of specified non-numeric water
17 quality based effluent limitations consistent with the Watershed Management
18 Program for final WLAs via an iterative process will be deemed compliance with
19 the Permit;
- 20 d) To amend the Permit to reduce Petitioner's inspection obligations for new
21 development to require it to inspect only conventional BMPs or, in the alternative,
22 to require spot checks of a limited number of LID measure to determine how well
23 they actually operate; and,
- 24 e) To amend the Permit to allow Petitioner twelve months to provide the notice of
25 intent to develop a WMP or EWMP and twenty-four months to develop the draft
26 WMP or EWMP plan. This additional time will ensure the WMP or EWMP as
27 developed is comprehensive, analytically supported and implementable.
28

1 VII. Statement of Points and Authorities in Support of Legal Issues Raised in the Petition

2 A. The Permit's Receiving Water Language Creates Unnecessary Liability for the
3 Petitioner

4 The RWL language in the Permit is virtually identical to the language from the 2001 Permit.
5 Litigation regarding that language resulted in a court decision that held a city would be liable for
6 Permit violations if its discharges caused or contributed to an exceedance of a given water quality
7 standard. *Natural Resources Defense Council, Inc., et al., v. County of Los Angeles, Los Angeles County Flood*
8 *Control District, et al.* (9th Cir. 2010) 673 F.3d 880. This decision is squarely at odds with what had
9 been understood by the Regional Board that a city would violate the Permit only if it failed to engage
10 in a good faith effort to implement the iterative process to correct the harm. (January 30, 2002 letter
11 from Francine Diamond, Chair, L.A. Regional Water Quality Control Board, attached hereto as
12 Exhibit D). As a result, Petitioner will be exposed to potential liability, including third party lawsuits,
13 even though it has little control over the sources of pollutants that create the exceedance and even
14 though it engages in an adaptive management approach and uses best management practices ("BMPs")
15 to address the exceedance.

16 Given the fundamental shift in how permits have been traditionally implemented, the RWL
17 language requires review. As it is currently written, Petitioner conceivably could be held in non-
18 compliance on day one of the Permit, December 28, 2012, without it having an opportunity to
19 develop a plan of action, source identification or an implementation plan to address potential
20 exceedances. Specifically, the Permit's RWL language immediately prohibits Petitioner from causing
21 or exceeding water quality standards in the basin. And though the Regional Board indicated that so
22 long as permittees implemented the iterative process enforcement actions were unlikely, such
23 unofficial policy does not extend to third parties. Those third parties need not refrain from filing an
24 action based on the cause/contribute prohibition in the Permit. Indeed, the City of Stockton fell
25 victim to this very thing; it was sued by a third party for alleged violations of its permit despite its
26 implementation of an iterative process with specific pollutant load reduction plans. Here, given the
27 Permit's current RWL language, Petitioner faces the same, immediate threat of potential liability.

28 Additionally compounding the problem is that federal law does not require the RWL language

1 in the Permit. The RWL language is unique to California, and USEPA developed permits for areas
2 outside California do not contain similar limitations. For example, NPDES Permit No. DC0000221
3 issued by USEPA Region 3 on October 7, 2011 for the Washing D.C. area, contains no such
4 limitation. Thus, the Board has the opportunity to endorse the iterative process as the preferred
5 approach to achieve water quality goals.

6 Accordingly, Petitioner respectfully requests the Board amend the Permit's RWL Language to
7 be consistent with the language developed by the California Association of Stormwater Quality, a copy
8 of which is attached as Exhibit E to Exhibit B hereto, which is the L.A. Permit Group's July 23, 2012
9 letter to the Regional Board. Under this language, permittees who do not engage in good faith in the
10 iterative process will be subject to enforcement. Permittees that diligently implement stormwater
11 programs and implement BMPs, however, will not be subject to unnecessary and counterproductive
12 liability.

13
14 **B. The RWL Language is at Odds with the Watershed Management Program**

15 Apart from creating an unwarranted risk of liability not required by federal law, the RWL
16 language also undermines the Watershed Management Program. Under the Watershed Management
17 Program, permittees will develop watershed management programs based on the highest priority water
18 quality issues, which consistent with the Permit will most likely focus on TMDLs and pollutants
19 associated with those TMDLs. But the RWL language forces permittees, including Petitioner, to
20 spend their resources to control any and all pollutants that may cause exceedances of water quality
21 standards, even for non-TMDL pollutants, even if such pollutants occur infrequently. Municipal
22 resources are limited even in the best of economic times and, in the current economic climate, are
23 even scarcer. Amending the RWL language as suggested in section VII.A above, will eliminate this
24 contradiction and allow the best use of limited municipal resources to increase water quality.

25
26 **C. Numeric Effluent Limitations for Final TMDL WLAs Are Infeasible and**
27 **BMPs Are More Appropriate**

28 The Permit incorporates strict numeric limits for Total Maximum Daily Loads ("TMDL")

1 waste load allocations (“WLAs”). (Exh. A., Permit Part VI.E.1.c.) Petitioner recognizes the Regional
2 Board generally has discretion to include numeric limits *where feasible*. Here, such limits are not
3 required, create compliance inconsistencies with other Permit requirements and are not feasible.

4 First, court decisions and prior State Board rulings confirm that WLAs may be incorporated as
5 non-numeric effluent limitations. (E.g., *Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159,
6 1166-67; Order WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los
7 Angeles County Flood Control District, p. 10.) In Order WQ 2009-0008, this Board noted:

8 This is not to say that a wasteload allocation will result in numeric effluent limitations
9 for municipal storm water discharges. But, when an approved TMDL is in place, the
10 water boards will give substantive effect to the TMDL and allow it to become much
11 more than an academic exercise. Whether a future municipal storm water permit
12 requirement appropriately implements a storm water wasteload allocation will need to
13 be decided based on the regional water quality control board’s findings supporting
14 either the numeric or *non-numeric effluent limitations* contained in the permit.

15
16 (*Id.* at p. 10, emphasis added.) (See also, *Communities for a Better Environment v. State Water Resources*
17 *Control Bd.* (2003) 109 Cal.App.4th 1089, 1105 [Clean Water Act does not require water quality-based
18 effluent limitations to be numeric in NPDES Permit.]) Additionally, 40 CFR § 122.44(k) authorizes
19 the Regional Board to impose BMPs to control storm water discharge instead of numeric effluent
20 limitations when such numeric values are infeasible.

21 Second, numeric limitations are infeasible to regulate municipal storm water discharge in
22 particular. Indeed, the State Board convened an expert panel to evaluate the feasibility of numeric
23 effluent limitation for storm water discharge. That panel stated the problem well:

24 Monitoring for enforcement of numeric effluent limits would also be challenging.

25 While spot checks could be made at some of the many outfalls in an area, there is wide
26 variation in stormwater quality from place to place, facility to facility, and storm to
27 storm. Coefficients of variation approaching 1 or higher are not uncommon and there
28 are few factors that can be used to significantly reduce this variation. Analysis of the

1 National Stormwater Quality Database indicates that geographical location and land
2 use are the most important factors affecting stormwater quality for most constituents.
3 Some are also affected by the antecedent dry period before the rain and more highly
4 developed watersheds (containing large fractions of impervious areas) often show
5 elevated “first-flush” concentrations in the first portion of the storms for some, but not
6 all pollutants. Since the storm-to-storm variation at any outfall can be high, it may be
7 unreasonable to expect all events to be below a numeric value.

8
9 (“The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with
10 Municipal, Industrial and Construction activities,” June 19, 2006 at page 6, Storm Water Panel
11 Recommendations to the California State Water Control Board.) The panel went on to conclude that
12 “[i]t is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in
13 particular urban discharges.” (*Id.* at p. 8.)

14 None of the difficulties outlined above has changed since 2006. Indeed, the draft permit for
15 CalTrans acknowledges such difficulties and in lieu of numeric WLAs, sets BMPs to control and abate
16 storm water discharges. “Storm water discharges from S4s are highly variable in frequency, intensity,
17 and duration, and it is difficult to characterize the amount of pollutants in the discharges. In
18 accordance with 40 Code of Federal Regulations section 122.44(k)(2), the inclusion of BMPs in lieu of
19 numeric effluent limitations is appropriate in storm water Permits.”

20 In the face of the recognized extreme variability of effluent levels in storm water discharge,
21 measuring compliance by strict numeric values results in unfair enforcement and imposes liability on
22 permittees for discharges over which they have no control. For example, a permittee, through due
23 diligence and implementation of BMPs, could meet all interim WLAs and yet be deemed out of
24 compliance if it failed, for the first time, to meet the strict numeric values at the time of the final
25 compliance date. (As discussed in Section VII.D below, if this occurred, the Permit’s structure would
26 require that all permittees be deemed out of compliance.) This would be especially inequitable if such
27 noncompliance was the result of pollution sources outside the permittee’s control and would also
28 disregard all of the compliance actions the permittee had taken before. The result is both bad policy

1 and unfair.

2 To correct this issue, Petitioner requests the Board amend the Permit to: 1) Substitute BMPs
3 consistent with the Watershed Management Program in lieu of strict numeric WLAs (as has been
4 done in the draft CalTrans permit) to control and abate pollution discharge in storm water; and,
5 2) state that implementation of such BMPs via an iterative process will be deemed compliance with the
6 Permit. This amendment is consistent with both federal and state policy in MS4 permits for achieving
7 receiving water limitations. (E.g., Order WQ 1999-05.)

8
9 **D. The Permit Imposes Joint Liability for Exceedances Even When There is No**
10 **Evidence a Permittee Caused or Contributed to the Exceedance**

11 The Permit imposes joint liability on Petitioner for commingled MS4 discharges which exceed
12 the applicable water quality standards and places the burden on the City to prove its innocence rather
13 than on the enforcement authority to prove the violation. (Exh. A., Permit Part VI.E.2.b.iii
14 [providing that compliance is determined as a whole where permittees have commingled discharges to
15 receiving waters, unless an individual permittee demonstrates that it did not cause or contribute to the
16 exceedance].) Imposing presumptive joint and several liability upon Petitioner and the other cities
17 subject to the Permit is unlawful and inequitable. First, it fails to ensure that each permittee is only
18 liable for the exceedances it causes and not also for those over which it has no control or influence.
19 Second, the provision extends beyond the Regional Board's authority as the Water Code contemplates
20 issuance of discharge requirements, such as those imposed by this Permit, to the "person making or
21 proposing the discharge." (Water Code § 13263(f).) The Permit ignores this limitation. Instead, it
22 forces each city to be responsible for the actions of other permittees and also any other person or
23 entity who causes a discharge into the commingled MS4. In essence, the Permit forces each permittee
24 to be a guarantor for the entire watershed draining into its MS4 section, plus all of the private
25 polluters within the County who may discharge into the MS4, without any apportionment among the
26 cities based on their relative contributions or recognition of the fact that there are often clear, non-
27 stormwater sources of pollutants for whom Petitioner should not be responsible.

28 Moreover, though the Permit attempts to resolve this untenable situation of joint and several

1 liability by allowing a city to demonstrate that it did not cause or contribute to a particular exceedance,
2 this effort falls short. The Permit provides that a city is not responsible for an exceedance where it can
3 demonstrate that either: 1) there were no discharges from its portion of the MS4 into the applicable
4 receiving water during the time at issue; 2) that the discharge from its portion of the MS4 is controlled
5 to a level below the relevant water quality limitation; or 3) for exceedances of bacteria standards, that
6 pollutant sources within the Permittee's jurisdiction have not caused or contributed to the relevant
7 exceedance. (Exh. A., Permit Part VI.E.2.b.v.) While this provision removes some of the unjust joint
8 and several liability for cities, it only does so in a narrow set of situations. There are no provisions to
9 allow a city to demonstrate that the source of the relevant exceedance is a private polluter or another
10 permittee and, thus, that the City should not be held liable for that exceedance because the City did
11 not cause or contribute to the exceedance, even though the MS4's outfall remains impaired and thus
12 outside this exemption. More fundamentally, the burden of proof had been placed on the wrong
13 party. It should not be incumbent upon each city to prove a negative-that a particular exceedance was
14 not caused by it-before it can escape liability for the actions of private polluters and other cities.
15 Instead, the enforcement authority should bear the burden to show a particular permittee is
16 responsible for a given exceedance before any liability can be imposed on that City. Only then will the
17 proper party-the one who is at fault-bear responsibility, rather than the current Permit's imposition of
18 responsibility on each permittee and its taxpayers by default.

19
20 **E. The Permit Imposes Onerous Inspection Requirements on Petitioner**

21 The Minimum Control Measures described in the Permit require the City to not only
22 implement the Low-Impact Development ("LID") requirements for new development, but also to
23 inspect and track whether developers adequately implement these measures. For example, Section
24 VI.D.6.d requires the City to inspect post construction BMPs including LID measures. "Each
25 Permittee shall inspect all commercial facilities to confirm that storm water and non-storm water
26 BMPs are being effectively implemented in compliance with municipal ordinances. At each facility,
27 inspectors shall verify that the operator is implementing effective source control BMPs for each
28 corresponding activity."

1 To comply, the City will necessarily need to develop an inspection regime to allow it to
2 examine all BMP elements, including the various LID components, which because of their infiltration
3 type measures, can only be effectively inspected during a rain event to ensure they are functioning as
4 designed. And, the number of LID measures for each given project will be many (e.g., planter boxes,
5 infiltration trenches, swales, etc.) The new inspection program mandated by the Permit is simply cost
6 prohibitive for Petitioner, a city of 10,996, with a correspondingly limited budget and staff. The City's
7 Public Works director estimates that the annual cost to the City to implement the inspection program
8 would be \$12,000. (Inman Decl., ¶ 4.) As a public entity, with annual budgeting requirements and a
9 virtually fixed amount of economic resources given the municipal finance restrictions of Propositions
10 218, 13 and 26, the cost to implement the inspection program will likely require the City to divert
11 money from other City services and programs. (Inman Decl., ¶ 4.)

12 This additional cost would be imposed at the same time the City is exposed to a risk of
13 immediate potential liability regarding the RWLs the Permit sets. The Regional Board had no data to
14 establish that such a large expenditure of resources would result in a correspondingly increase in water
15 quality and, thus, the benefits do not outweigh the burden to the City. Without such justification, the
16 costs to Petitioner are not reasonable or necessary. Accordingly, Petitioner requests the Board amend
17 the Permit to reduce Petitioner's inspection obligations for new development to require it to inspect
18 only conventional BMPs or, in the alternative, to require spot checks of a limited number of LID
19 measures to determine how well they actually operate.

20
21 **F. The Permit Does Not Allow Sufficient Time for Petitioner to Develop an**
22 **Integrated Watershed Management Program**

23 Part VI.C of the Permit allows cities to implement its requirements by developing a Watershed
24 Management Plan ("WMP"), which is a comprehensive program to comply with all of the discharge
25 standards applicable to the permittee cities. A single city or several cities in the same watershed
26 working together can develop a WMP. Each program will identify and prioritize the water quality
27 issues resulting from discharges to the MS4 in the watershed, identify discharge control measures
28 necessary to ensure discharges in the watershed do not exceed the applicable limits, and then

1 implement those measures together with a monitoring and assessment program. (Exh. A., Permit Part
2 VI.C.1.f.) Each program is also to be evaluated and improved every two years under an adaptive
3 management process. (Exh. A, Permit Part VI.C.8.) Additionally, several cities in the same watershed
4 can develop an Enhanced Watershed Management Program (“EWMP”), which will go further than a
5 standard WMP as the Permit requires that an EWMP provide for the retention on site of all non-
6 storm water runoff and all storm water runoff from the 85th percentile, 24-hour storm event. (Exh.
7 A., Permit Part VI.C.1.g.)

8 However, the Permit imposes an unrealistic and infeasible deadline to complete such plans to
9 achieve compliance, and this unrealistic deadline warrants the Board’s review. Specifically, the
10 timeline for cities to develop a WMP depends on whether a city creates a program individually or
11 together with other cities, and on the existence or lack of certain storm water quality protections in
12 local law. Permittees must notify the Regional Board of their intent to develop a WMP or EWMP on
13 June 28, 2013. The notice of intent must include whether the city intends to develop a WMP or an
14 EWMP, specify the applicable pollutants and TMDLs, and identify watershed control measures to be
15 implemented concurrently with the development of the program. Cities electing to develop a EWMP
16 must also include executed memoranda of understanding among the participating cities; a plan for
17 developing the program, with cost estimates and a completed scoping analysis, interim milestones;
18 identify and commit to implement discharge control measures to provide “meaningful water quality
19 improvement” during the program development phase; and submit proof that greater than 50% of the
20 jurisdictions have both a Low Impact Development Ordinance and a Green Streets Policy in place or
21 have commenced development of each within 60 days of the Permit’s effective date and have a draft
22 ordinance or policy completed within 6 months of the Permit’s effective date.

23 Cities that elect to develop a WMP must complete a draft within 1 year after the Permit’s
24 effective date. A six month extension is available if the City or group of Cities shows that at least 50%
25 of the jurisdictions have both a Low Impact Development Ordinance and a Green Streets Policy in
26 place or have commenced development of each within 60 days of the Permit’s effective date of
27 December 28, 2012 and have a draft ordinance or policy completed within 6 months of the Permit’s
28 effective date. Cities that elect to develop an EWMP have 18 months from the Permit’s effective date

1 to submit a final work plan for the program's completion and 30 months from the Permit's effective
2 date to submit a draft program. Once submitted, the Regional Board has four months to comment on
3 a draft WMP or EWMP. The city or cities then have just three months to submit a revised WMP or
4 EWMP, after which the Regional Board has three months to approve or deny the program.

5 The deadlines for drafting, completion, and implementation of a WMP or EWMP are entirely
6 infeasible. First, the six-month period to submit the notice of intent to develop a WMP is too short as
7 the notice requires the Petitioner to complete a detailed scoping process to identify the applicable
8 pollutants in the watershed and to identify and develop control measures to be used in the interim to
9 foster compliance with those limitations. Six months is even more inadequate if Petitioner elects to
10 collaborate with other cities, which the Permit encourages given its focus on watershed-based efforts,
11 because cities within a watershed will need additional time to coordinate, develop and complete the
12 scoping process and interim measures amongst the various participants.

13 Second, a mere twelve months is not enough time to complete all the steps necessary to
14 develop a WMP. The same is true even for cities who have Low Impact Development and Green
15 Streets standards and who, as a result, earn an additional six months to complete the WMP. To
16 develop a draft WMP, Petitioner must identify and create a comprehensive program of engineered
17 physical and biological structures and control measures, regulatory changes, inspection protocols, and
18 public awareness and educational initiatives. This will require extensive study and analysis by City
19 staff, with the help of expert consultants. It will also require staff to develop customized control
20 measures and strategies responsive to its particular situation. Consuming even more time will be the
21 necessary public input and participation over a series of public hearings and workshops throughout
22 the process, from initial scoping before the notice of intent to develop a WMP or EWMP, through
23 development of the program's control measures, to review and responding to the Board's comments
24 on the draft. The public participation process will take still more time for those cities who develop a
25 program together, as the cities' staffs and councils will need to meet and work together, in addition to
26 the time required to find consensus among the cities working together via a public process.

27 Third, the requirement that stakeholders have input into the WMP ensures that one year is
28 too short to allow for considered development of the plan. Specifically, the Permit requires that, in

1 addition to the public, each WMP must provide "appropriate opportunity for meaningful stakeholder
2 input," through the creation of a permit-wide technical advisory committee who is to participate in the
3 development of all WMPs from month 6 through to approval. (Exh. A., Permit Part VI.C.1.f.v.)
4 While the committee's work will undoubtedly be helpful in the program's development, the time
5 allotted, just six months for cities without Low Impact Development and Green Streets standards and
6 twelve for those with, is insufficient for the cities to work with the committee to ensure appropriate
7 input from stakeholders. Further, for those cities who elect to develop EWMPs, while the deadline is
8 extended, there is still insufficient time to accomplish the development of a program to ensure onsite
9 capture of all non-storm water runoff and all storm water runoff at the 85th percentile of a 24-hour
10 storm. A watershed management program at this level requires an innovative storm water control
11 measure development process to enable the cities to be able to meet this unprecedented level of
12 capture. Overall, while the City would like to complete a WMP or EWMP within the time the Permit
13 requires, given the ability it presents to implement comprehensive compliance solutions to alleviate
14 water quality concerns for the MS4, that opportunity will be denied because the Permit does not
15 provide sufficient time to thoughtfully develop an effective program.

16 In short, compressing the development of the WMP or EWMP to six months will assuredly
17 result in either an inadequate and incomplete WMP or Petitioner's non-compliance because it will be
18 unable to complete even an inadequate WMP within the narrow time frame. Simply put, there is no
19 "off-the-shelf WMP" available for quick adoption by Petitioner. Thus, Petitioner requests the Board
20 amend the Permit to allow Petitioner twelve months to provide the notice of intent and twenty-four
21 months to develop the draft WMP or EWMP plan. This additional time will ensure the WMP as
22 developed is comprehensive, analytically supported and implementable.

23
24 **VIII. Petitioner Has Sent a Copy of this Petition to the Regional Water Board**

25 A copy of this petition was mailed to the Regional Board Executive Officer, Samuel Unger, on
26 December 10, 2012.

27
28

1 **IX. Statement Regarding Raising Substantive Issues or Objections Presented to the Board**

2 The substantive issues raised in this Petition were presented to the Regional Board before it
3 acted on November 8, 2012. A copy of the L.A. Permit Group's July 23, 2012 letter, with all original
4 exhibits, is attached hereto as Exhibit B. Petitioner is a member of the L.A. Permit Group. A copy of
5 a separate letter sent by Petitioner addressing additional issues is attached hereto as Exhibit C.

6
7 **X. A Stay is Necessary Pending State Board Review of the Challenged Action**

8 Water Code § 13321 and California Code of Regulations, Title 2, Section 2053 authorize the
9 Board to issue an immediate stay of the Permit pending review of this petition if necessary to avoid
10 substantial harm to the City. As set forth below, such a stay is warranted because the Petitioner will
11 suffer harm if no stay issues, the general public, by contrast, will not suffer harm if one issues and
12 substantial questions of law and fact remain regarding the Permit.

13
14 **A. An Immediate Stay is Necessary to Prevent Substantial Harm to Petitioner**

15 If the Board does not issue a stay, the City will suffer substantial harm. First, the Permit
16 exposes the City to potential liability immediately when it goes into effect on December 28, 2012.
17 The RWL language as drafted does not allow the City any opportunity, much less a reasonable one, to
18 develop a plan of action, source identification or an implementation plan to address potential
19 exceedances and thereby ensure compliance in the face of the current risk of noncompliance. The
20 City's risk erupts on December 28, 2012 and will remain during the pendency of this Petition even if,
21 ultimately, the Board decides to amend the Permit's RWL language to allow an iterative process for
22 compliance as the City has requested. Thus, the City could be forced to defend itself in an
23 enforcement action, including a third party lawsuit, which may prove moot depending on the Board's
24 decision on this Petition. The example regarding Stockton discussed at page 5 above illustrates that
25 this risk is substantial.

26 Moreover, as to the trash TMDLs in the Los Angeles river, including the interim levels, it is
27 impossible for Petitioner to achieve compliance by December 28, 2012. To comply, the City would
28 need to install approved trash capture devices in each of the 231 catch basins within the City's

1 boundaries. (Carlson Decl., ¶ 4.) It is both physically and logistically impossible to complete such task
2 within the time required by the Permit. (Carlson Decl., ¶ 6.) Additionally, because the County owns
3 130 of the catch basins within the City, the City will also need to obtain encroachment permits from
4 the County before it can install the inserts. (Carlson Decl., ¶ 4-5.) Despite that effort, the City will
5 still be forced to expend funds to comply with such requirements and, possibly, to defend an
6 enforcement action that may well become moot, thereby wasting limited public resources better spent
7 on developing the WMP.

8 Second, the Permit requires the City to inspect new development to confirm compliance with
9 BMPs and LID standards. The City will need to comply with that provision while the Board considers
10 this Petition. To fund the inspections, the City estimates it will require \$12,000, which it will have to
11 redirect from other City programs and services during the pendency of the Petition. Because the
12 Petitioner's resources are limited, other programs will suffer even if the Board adopts the Petitioner's
13 position that such inspection obligations should be reduced and, as a result, Petitioner need not have
14 spent the amount it did to comply with the faulty requirement in the interim.

15 Simply put, the City suffers substantial harm when it is forced to expend its limited funds to
16 comply with standards that are unnecessary or not required by law. A stay of the portions of the
17 Permit addressing these two issues can minimize that harm while, as described below, causing no harm
18 to others.

19 **B. A Stay Will Not Harm Other Interested Persons or the General Public**

20 In contrast to the harm the Petitioner will suffer if no stay issues, the general public and other
21 interested persons will suffer no harm. First, Petitioner has and will continue to implement BMPs to
22 achieve compliance with both RWLs and TMDL WLA's. For example, Petitioner has already installed
23 inserts into two catch basins for purposes of verifying their efficacy in the field before beginning a
24 program to install them on the remaining 229 catch basins. (Carlson Decl., ¶ 4.) Implementing a
25 stay on the RWL language and the strict numeric TMDL WLA's provisions, which in effect impose an
26 immediate significant risk of potential third party liability will, thus, not negatively impact water
27 quality.

28 Neither will issuing a stay on the provisions regarding the level of inspections the Petitioner

1 must conduct for new development. Petitioner does not seek a stay on the provisions that encourage a
2 permittee to adopt LID standards, and it is currently in the process of adopting such standards. But
3 the public suffers no harm by a stay to avoid Petitioner having to redirect its limited public finance
4 resources to fund an onerous inspection program that the Regional Board did not establish will have a
5 corresponding increase in water quality. Rather, the public benefits by the City not spending scarce
6 tax dollars on a program this Board could substantially reduce in scope.

7
8 **C. There Are Substantial Questions of Law and Fact Regarding the Disputed**
9 **Permit**

10 As set forth in detail in Section VII above, substantial questions of both law and fact exist
11 regarding the Permit. Those questions include:

- 12 • Whether the Regional Board's decision to draft RWL language in the Permit that
13 appears to abandon the iterative process and thereby expose permittees, including the
14 Petitioner, to potential third-party liability immediately upon the Permit's effective date
15 is consistent with federal law, supported by substantial evidence or represents good
16 policy;
- 17 • Whether strict numerical limits for TMDL WLAs are required by federal law and,
18 additionally, whether such limits are feasible as opposed to prescribing BMPs and
19 implementing an iterative method to achieve compliance;
- 20 • Whether it is equitable to require Petitioner to prove its innocence when an
21 exceedance occurs despite the lack of data as opposed to requiring the Regional Board
22 to establish the Petitioner contributed to or caused the exceedance;
- 23 • Whether Petitioner should be required to develop and fund a new inspection program
24 for new development to measure compliance with BMPs and particularly LIDs when
25 the cost to implement such program will not result in a corresponding increase in
26 water quality; and,
- 27 • Whether the twelve month time frame is sufficient for Petitioner to develop an
28 adequate and comprehensive WMP.

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XI. Conclusion

For the foregoing reasons, Petitioner requests the Board review the Permit and make the amendments specified in Section VI above. Further, Petitioner requests the Board issue a stay of the Permit while this Petition is pending before the Board.

DATED: December 10, 2012

COLANTUONO & LEVIN, PC



HOLLY O. WHATLEY
Attorneys for Petitioner
City of Sierra Madre

Colantuono & Levin, PC
300 S. GRAND AVENUE, SUITE 2700
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3 HOLLY O. WHATLEY, State Bar No. 160259
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4 COLANTUONO & LEVIN, PC
300 S. Grand Avenue, Suite 2700
5 Los Angeles, California 90071-3137
Telephone: (213) 542-5700
6 Facsimile: (213) 542-5710
7 Attorneys for Petitioner
City of Sierra Madre
8

9 STATE OF CALIFORNIA

10 STATE WATER RESOURCES CONTROL BOARD

11 In the Matter of Petition of:

12 City of Sierra Madre from California Regional
13 Water Quality Control Board, Los Angeles
14 Region, Waste Discharge Requirements for
Municipal Separate Storm Sewer System (MS4)
15 Discharges within the Coastal Watersheds of Los
Angeles County, Except Those Discharges
16 Originating from the City of Long Beach MS4,
Order NO. R4-2012-0175, NPDES Permit No.
CAS004001.
17

DECLARATIONS OF BRUCE INMAN AND
JAMES CARLSON IN SUPPORT OF CITY
OF SIERRA MADRE'S PETITION FOR
REVIEW AND REQUEST FOR IMMEDIATE
STAY

[PETITION AND REQUEST FOR STAY
FILED UNDER SEPARATE COVER]

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DECLARATION OF BRUCE INMAN

I, BRUCE INMAN, declare and state as follows:

1. I am an individual and am the Public Works Director for the City of Sierra Madre, Petitioner in the above-entitled action. I make this declaration in support of the City's Petition for Review and Request for Immediate Stay of California Regional Water Quality Control Board, Los Angeles Region, Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except Those Discharges Originating from the City of Long Beach MS4, Order NO. R4-2012-0175, NPDES Permit No. CAS004001 (the "Permit"). The facts set forth herein are true of my own personal knowledge, and if called upon to testify thereto, I could and would competently do so under oath.

2. I have been the Public Works Director for the City since March 1997. As Public Works Director for the City, I am intimately familiar with the City's storm water discharge standards and the various best management practices ("BMPs") the City follows, as well as the types of BMPs followed by developers both pre and post construction within the City.

3. As a public entity, the financial resources of the City are limited and require budgeting on an annual basis.

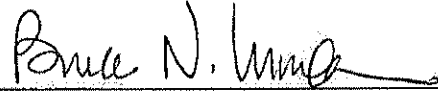
4. The Permit imposes on the City the obligation to inspect new development for compliance with BMP, including Low-Impact Development ("LID") standards. To adequately determine whether the LIDs are functioning as designed, the inspections will need to take place during a rain event, similar to the manner in which construction sites are inspected for compliance with their storm water pollution prevention plan or SWPPPs. I estimate that the cost to the City to

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LOS ANGELES, CA 90071-3137

1 inspect all BMP elements of new development, including the various Low-Impact LID requirements,
2 will cost the City approximately \$12,000 annually.
3

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct. Executed on December 10, 2012 at Sierra Madre, California.
6

7 

8 BRUCE INMAN
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DECLARATION OF JAMES CARLSON

I, JAMES CARLSON, declare and state as follows:

1. I am an individual and am a Management Analyst for the City of Sierra Madre, Petitioner in the above-entitled action. I make this declaration in support of the City's Petition for Review and Request for Immediate Stay of California Regional Water Quality Control Board, Los Angeles Region, Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except Those Discharges Originating from the City of Long Beach MS4, Order NO. R4-2012-0175, NPDES Permit No. CAS004001 (the "Permit"). The facts set forth herein are true of my own personal knowledge, and if called upon to testify thereto, I could and would competently do so under oath.

2. I have been a Management Analyst with the City for four years. My job duties during that time include environmental compliance reporting and planning. As a result of my duties, I am intimately familiar with the Permit and the drafting process that preceded issuance of the Permit. I am familiar with the RWL and TMDL limitations in the Permit. I am also familiar with what the City would need to do to achieve compliance with the Permit.

3. The TMDL levels in the Permit are immediately enforceable against permittees when the Permit takes effect on December 28, 2012. Given the Permit's Los Angeles River trash TMDL levels and the short time frame given in the permit, the City expects to be out of compliance with the interim levels despite its commitment to compliance and its ongoing efforts to minimize trash output into the Los Angeles River.

4. To achieve compliance, the City will need to install approved full capture inserts into every catch basin within the City. The City has 231 catch basins within its boundaries. The City has installed full capture inserts into two basins to test their efficacy under field conditions and to verify they will work to achieve compliance. The approved inserts cost approximately \$600 each. Thus, the total cost just for the equipment for the remaining 229 catch basins is \$137,400. In addition to the equipment costs, the City needs to obtain a permit from the County of Los Angeles for the

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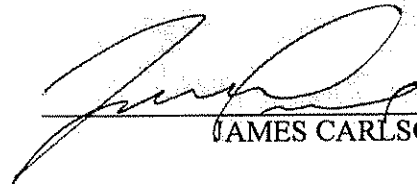
installation. The County's encroachment permits cost approximately \$250 each, adding an additional approximately \$32,500 to the catch basin compliance costs.

5. Of the 231 catch basins, the County of Los Angeles owns 130 of them and the City owns the remaining 101. Thus, before any work on the catch basins can be begun, the City must reach an agreement with the County regarding how the costs to maintain the inserts will be shared.

6. The City does not have the immediate financial resources to purchase the 231 approved inserts for the catch basins. Even if it did, it would be physically impossible to order the inserts, obtain them and the required permits from the County, and install the inserts in the 231 catch basins before the Permit goes into effect on December 28, 2012.

7. Based on the foregoing, the Permit will impose significant costs on the City and immediately makes the City vulnerable to enforcement lawsuits regarding the trash TMDL interim levels.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 10, 2012 at Sierra Madre, California.



JAMES CARLSON

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PROOF OF SERVICE
In the Matter of Petition of: City of Sierra Madre from
California Regional Water Quality Control Board, et al

I, Martha C. Rodriguez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 300 S. Grand Avenue, Suite 2700, Los Angeles, California 90071-3137. On December 10, 2012, I served the document(s) described as **DECLARATIONS OF BRUCE INMAN AND JAMES CARLSON IN SUPPORT OF CITY OF SIERRA MADRE'S PETITION FOR REVIEW AND REQUEST FOR IMMEDIATE STAY** on the interested parties in this action as follows:

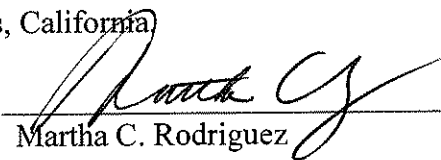
By placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Samuel Unger, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region 320 West Fourth Street, Suite 200
Los Angeles, CA 90013

BY MAIL: The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

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

Executed on December 10, 2012, at Los Angeles, California


Martha C. Rodriguez

Colantuono & Levin, PC
300 S. GRAND AVENUE, SUITE 2700
LOS ANGELES, CA 90071-3137

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576 - 6600 • Fax (213) 576 - 6640
<http://www.waterboards.ca.gov/losangeles>

**ORDER NO. R4-2012-0175
NPDES PERMIT NO. CAS004001**

**WASTE DISCHARGE REQUIREMENTS
FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE
COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES
ORIGINATING FROM THE CITY OF LONG BEACH MS4**

The municipal discharges of storm water and non-storm water by the Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (hereinafter referred to separately as Permittees and jointly as the Dischargers) from the discharge points identified below are subject to waste discharge requirements as set forth in this Order.

I. FACILITY INFORMATION

Table 1. Discharger Information

Dischargers	The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (See Table 4)
Name of Facility	Municipal Separate Storm Sewer Systems (MS4s) within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach MS4
Facility Address	Various (see Table 2)
The U.S. Environmental Protection Agency (USEPA) and the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) have classified the Greater Los Angeles County MS4 as a large municipal separate storm sewer system (MS4) pursuant to 40 CFR section 122.26(b)(4) and a major facility pursuant to 40 CFR section 122.2.	

Table 2. Facility Information

Permittee (WDID)	Contact Information	
Agoura Hills (4B190147001)	Mailing Address	30001 Ladyface Court Agoura Hills, CA 91301
	Facility Contact, Title, and E-mail	Ken Berkman, City Engineer kberkman@agoura-hills.ca.us

Permittee (WDID)	Contact Information	
Alhambra (4B190148001)	Mailing Address	111 South First Street Alhambra, CA 91801-3796
	Facility Contact and E-mail	David Dolphin ddolphin@cityofalhambra.org
Arcadia (4B190149001)	Mailing Address	11800 Goldring Road Arcadia, CA 91006-5879
	Facility Contact, Title, Phone, and E-mail	Vanessa Hevener, Environmental Services Officer (626) 305-5327 vhevener@ci.arcadia.ca.us
Artesia (4B190150001)	Mailing Address	18747 Clarkdale Avenue Artesia, CA 90701-5899
	Facility Contact, Title, and E-mail	Maria Dadian, Director of Public Works mdadian@cityofartesia.ci.us
Azusa (4B190151001)	Mailing Address	213 East Foothill Boulevard Azusa, CA 91702
	Facility Contact, Title, and E-mail	Carl Hassel, City Engineer chassel@ci.azusa.ca.us
Baldwin Park (4B190152001)	Mailing Address	14403 East Pacific Avenue Baldwin Park, CA 91706-4297
	Facility Contact, Title, and E-mail	David Lopez, Associate Engineer dlopez@baldwinpark.com
Bell (4B190153001)	Mailing Address	6330 Pine Avenue Bell, CA 90201-1291
	Facility Contact, Title, and E-mail	Terri Rodrigue, City Engineer trodrigue@cityofbell.org
Bell Gardens (4B190139002)	Mailing Address	7100 South Garfield Avenue Bell Gardens, CA 90201-3293
	Facility Contact, Title, and Phone	John Oropeza, Director of Public Works (562) 806-7700
Bellflower (4B190154001)	Mailing Address	16600 Civic Center Drive Bellflower, CA 90706-5494
	Facility Contact, Title, and E-mail	Bernie Iniguez, Environmental Services Manager biniguez@bellflower.org
Beverly Hills (4B190132002)	Mailing Address	455 North Rexford Drive Beverly Hills, CA 90210
	Facility Contact, Title, and E-mail	Vincent Chee, Project Civil Engineer kgettler@beverlyhills.org
Bradbury (4B190155001)	Mailing Address	600 Winston Avenue Bradbury, CA 91010-1199
	Facility Contact, Title, and E-mail	Elroy Kiepke, City Engineer mkeith@cityofbradbury.org
Burbank (4B190101002)	Mailing Address	P.O. Box 6459 Burbank, CA 91510
	Facility Contact, Title, and E-mail	Bonnie Teaford, Public Works Director bteaford@ci.burbank.ca.us
Calabasas (4B190157001)	Mailing Address	100 Civic Center Way Calabasas, CA 91302-3172
	Facility Contact, Title, and E-mail	Alex Farassati, ESM afarassati@cityofcalabasas.com
Carson (4B190158001)	Mailing Address	P.O. Box 6234 Carson, CA 90745
	Facility Contact, Title,	Patricia Elkins, Building Construction Manager

Permittee (WDID)	Contact Information	
Cerritos (4B190159001)	and E-mail	pelkins@carson.ca.us
	Mailing Address	P.O. Box 3130 Cerritos, CA 90703-3130
	Facility Contact, Title, and E-mail	Mike O'Grady, Environmental Services mo'grady@cerritos.us
Claremont (4B190160001)	Mailing Address	207 Harvard Avenue Claremont, CA 91711-4719
	Facility Contact, Title, and E-mail	Craig Bradshaw, City Engineer cbradshaw@ci.claremont.ca.us
Commerce (4B190161001)	Mailing Address	2535 Commerce Way Commerce, CA 90040-1487
	Facility Contact and E-mail	Gina Nila gnila@ci.commerce.ca.us
Compton (4B190162001)	Mailing Address	205 South Willowbrook Avenue Compton, CA 90220-3190
	Facility Contact, Title, and Phone	Hien Nguyen, Assistant City Engineer (310) 761-1476
Covina (4B190163001)	Mailing Address	125 East College Street Covina, CA 91723-2199
	Facility Contact, Title, and E-mail	Vivian Castro, Environmental Services Manager vcastro@covinaca.gov
Cudahy (4B190164001)	Mailing Address	P.O. Box 1007 Cudahy, CA 90201-6097
	Facility Contact, Title, and E-mail	Hector Rodriguez, City Manager hrodriguez@cityofcudahy.ca.us
Culver City (4B190165001)	Mailing Address	9770 Culver Boulevard Culver City, CA 90232-0507
	Facility Contact, Title, and Phone	Damian Skinner, Manager (310) 253-6421
Diamond Bar (4B190166001)	Mailing Address	21825 East Copley Drive Diamond Bar, CA 91765-4177
	Facility Contact, Title, and E-mail	David Liu, Director of Public Works dliu@diamondbarca.gov
Downey (4B190167001)	Mailing Address	P.O. Box 7016 Downey, CA 90241-7016
	Facility Contact, Title, and E-mail	Yvonne Blumberg yblumberg@downeyca.org
Duarte (4B190168001)	Mailing Address	1600 Huntington Drive Duarte, CA 91010-2592
	Facility Contact, Title, and Phone	Steve Esbenshades, Engineering Division Manager (626) 357-7931 ext. 233
El Monte (4B190169001)	Mailing Address	P.O. Box 6008 El Monte, CA 91731
	Facility Contact, Title, and Phone	James A Enriquez, Director of Public Works (626) 580-2058
El Segundo (4B190170001)	Mailing Address	350 Main Street El Segundo, CA 90245-3895
	Facility Contact, Title, Phone, and E-mail	Stephanie Katsouleas, Public Works Director (310) 524-2356 skatsouleas@elsegundo.org
Gardena (4B190118002)	Mailing Address	P.O. Box 47003 Gardena, CA 90247-3778

Permittee (WDID)	Contact Information	
	Facility Contact, Title, and E-mail	Ron Jackson, Building Maintenance Supervisor jfelix@ci.gardena.ci.us
Glendale (4B190171001)	Mailing Address	Engineering Section, 633 East Broadway, Room 209 Glendale, CA 91206-4308
	Facility Contact, Title, and E-mail	Maurice Oillataguerre, Senior Environmental Program Scientist moillataguerre@ci.glendale.ca.us
Glendora (4B190172001)	Mailing Address	116 East Foothill Boulevard Glendora, CA 91741
	Facility Contact, Title, and E-mail	Dave Davies, Deputy Director of Public Works ddavies@ci.glendora.ca.us
Hawaiian Gardens (4B190173001)	Mailing Address	21815 Pioneer Boulevard Hawaiian Gardens, CA 90716
	Facility Contact, Title, and E-mail	Joseph Colombo, Director of Community Development jcolombo@ghcity.org
Hawthorne (4B190174001)	Mailing Address	4455 West 126 th Street Hawthorne, CA 90250-4482
	Facility Contact, Title, and E-mail	Arnold Shadbeh, Chief General Service and Public Works ashadbeh@cityofhawthorne.org
Hermosa Beach (4B190175001)	Mailing Address	1315 Valley Drive Hermosa Beach, CA 90254-3884
	Facility Contact, Title, and E-mail	Homayoun Behboodi, Associate Engineer hbehboodi@hermosabch.org
Hidden Hills (4B190176001)	Mailing Address	6165 Spring Valley Road Hidden Hills, CA 91302
	Facility Contact, Title, and Phone	Kimberly Colberts, Environmental Coordinator (310) 257-2004
Huntington Park (4B190177001)	Mailing Address	6550 Miles Avenue Huntington Park, CA 90255
	Facility Contact, Title, and Phone	Craig Melich, City Engineer and City Official (323) 584-6253
Industry (4B190178001)	Mailing Address	P.O. Box 3366 Industry, CA 91744-3995
	Facility Contact and Title	Mike Nagaoka, Director of Public Safety
Inglewood (4B190179001)	Mailing Address	1 W. Manchester Blvd, 3 rd Floor Inglewood, CA 90301-1750
	Facility Contact, Title, and E-mail	Lauren Amimoto, Senior Administrative Analyst lamimoto@cityofinglewood.org
Irwindale (4B190180001)	Mailing Address	5050 North Irwindale Avenue Irwindale, CA 91706
	Facility Contact, Title, and E-mail	Kwok Tam, Director of Public Works ktam@ci.irwindale.ca.us
La Canada Flintridge (4B190181001)	Mailing Address	1327 Foothill Boulevard La Canada Flintridge, CA 91011-2137
	Facility Contact, Title, and E-mail	Edward G. Hitti, Director of Public Works ehitti@lcf.ca.gov
La Habra Heights (4B190182001)	Mailing Address	1245 North Hacienda Boulevard La Habra Heights, CA 90631-2570
	Facility Contact, Title, and E-mail	Shauna Clark, City Manager shaunac@lhhcity.org
La Mirada	Mailing Address	13700 La Mirada Boulevard

Permittee (WDID)	Contact Information	
(4B190183001)		La Mirada, CA 90638-0828
	Facility Contact, Title, and E-mail	Steve Forster, Public Works Director sforster@cityoflamirada.org
La Puente (4B190184001)	Mailing Address	15900 East Marin Street La Puente, CA 91744-4788
	Facility Contact, Title, and E-mail	John DiMario, Director of Development Services jdimario@lapuente.org
La Verne (4B190185001)	Mailing Address	3660 "D" Street La Verne, CA 91750-3599
	Facility Contact, Title, and E-mail	Daniel Keesey, Director of Public Works dkeesey@ci.la-verne.ca.us
Lakewood (4B190186001)	Mailing Address	P.O. Box 158 Lakewood, CA 90714-0158
	Facility Contact and E-mail	Konya Vivanti kvivanti@lakewoodcity.org
Lawndale (4B190127002)	Mailing Address	14717 Burin Avenue Lawndale, CA 90260
	Facility Contact and Title	Marlene Miyoshi, Senior Administrative Analyst
Lomita (4B190187001)	Mailing Address	P.O. Box 339 Lomita, CA 90717-0098
	Facility Contact, Title, and E-mail	Tom A. Odom, City Administrator d.tomita@lomitacity.com
Los Angeles (4B190188001)	Mailing Address	1149 S. Broadway, 10 th Floor Los Angeles, CA 90015
	Facility Contact, Title, and Phone	Shahram Kharaghani, Program Manager (213) 485-0587
Lynwood (4B190189001)	Mailing Address	11330 Bullis Road Lynwood, CA 90262-3693
	Facility Contact and Phone	Josef Kekula (310) 603-0220 ext. 287
Malibu (4B190190001)	Mailing Address	23825 Stuart Ranch Road Malibu, CA 90265-4861
	Facility Contact, Title, and E-mail	Jennifer Brown, Environmental Program Analyst jbrown@malibucity.org
Manhattan Beach (4B190191001)	Mailing Address	1400 Highland Avenue Manhattan Beach, CA 90266-4795
	Facility Contact, Title, and Email	Brian Wright, Water Supervisor bwright@citymb.info
Maywood (4B190192001)	Mailing Address	4319 East Slauson Avenue Maywood, CA 90270-2897
	Facility Contact, Title, and Phone	Andre Dupret, Project Manager (323) 562-5721
Monrovia (4B190193001)	Mailing Address	415 South Ivy Avenue Monrovia, CA 91016-2888
	Facility Contact and E-mail	Heather Maloney hmaloney@ci.monrovia.ca.gov
Montebello (4B190194001)	Mailing Address	1600 West Beverly Boulevard Montebello, CA 90640-3970
	Facility Contact and E-mail	Cory Roberts croberts@aaeinc.com
Monterey Park	Mailing Address	320 West Newmark Avenue

Permittee (WDID)	Contact Information	
(4B190195001)		Monterey Park, CA 91754-2896
	Facility Contact, Phone, and E-mail	Amy Ho (626) 307-1383 amho@montereypark.ca.gov John Hunter (Consultant) at jhunter@jhla.net
Norwalk (4B190196001)	Mailing Address	P.O. Box 1030 Norwalk, CA 90651-1030
	Facility Contact and Title	Chino Consunji, City Engineer
Palos Verdes Estates (4B190197001)	Mailing Address	340 Palos Verdes Drive West Palos Verdes Estates, CA 90274
	Facility Contact, Title, and E-mail	Allan Rigg, Director of Public Works arigg@pvestates.org
Paramount (4B190198001)	Mailing Address	16400 Colorado Avenue Paramount, CA 90723-5091
	Facility Contact, Title, and E-mail	Chris Cash, Utility and Infrastructure Assistant Director ccash@paramountcity.org
Pasadena (4B190199001)	Mailing Address	P.O. Box 7115 Pasadena, CA 91109-7215
	Facility Contact and E-mail	Stephen Walker swalker@cityofpasadena.net
Pico Rivera (4B190200001)	Mailing Address	P.O. Box 1016 Pico Rivera, CA 90660-1016
	Facility Contact, Title, and E-mail	Art Cervantes, Director of Public Works acervantes@pico-rivera.org
Pomona (4B190145003)	Mailing Address	P.O. Box 660 Pomona, CA 91769-0660
	Facility Contact, Title, and E-mail	Julie Carver, Environmental Programs Coordinator Julie_Carver@ci.pomona.ca.us
Rancho Palos Verdes (4B190201001)	Mailing Address	30940 Hawthorne Boulevard Rancho Palos Verdes, CA 90275
	Facility Contact, Title, and E-mail	Ray Holland, Interim Public Works Director clehr@rpv.com
Redondo Beach (4B190143002)	Mailing Address	P.O. Box 270 Redondo Beach, CA 90277-0270
	Facility Contact, Title, and E-mail	Mike Shay, Principal Civil Engineer mshay@redondo.org
Rolling Hills (4B190202001)	Mailing Address	2 Portuguese Bend Road Rolling Hills, CA 90274-5199
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov
Rolling Hills Estates (4B190203001)	Mailing Address	4045 Palos Verdes Drive North Rolling Hills Estates, CA 90274
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov
Rosemead (4B190204001)	Mailing Address	8838 East Valley Boulevard Rosemead, CA 91770-1787
	Facility Contact, Title, and Phone	Chris Marcarello, Director of PW (626) 569-2118
San Dimas (4B190205001)	Mailing Address	245 East Bonita Avenue San Dimas, CA 91773-3002
	Facility Contact, Title,	Latoya Cyrus, Environmental Services Coordinator

Permittee (WDID)	Contact Information	
	and E-mail	lcyrus@ci.san-dimas.ca.us
San Fernando (4B190206001)	Mailing Address	117 Macneil Street San Fernando, CA 91340
	Facility Contact, Title, and E-mail	Ron Ruiz, Director of Public Works rruiz@sfcity.org
San Gabriel (4B190207001)	Mailing Address	425 South Mission Drive San Gabriel, CA 91775
	Facility Contact, Title, and Phone	Daren T. Grilley, City Engineer (626) 308-2806 ext. 4631
San Marino (4B190208001)	Mailing Address	2200 Huntington Drive San Marino, CA 91108-2691
	Facility Contact, Title, and E-mail	Chuck Richie, Director of Parks and Public Works crichie@cityofsanmarino.org
Santa Clarita (4B190117001)	Mailing Address	23920 West Valencia Boulevard, Suite 300 Santa Clarita, CA 91355
	Facility Contact, Title, and Phone	Travis Lange, Environmental Services Manager (661) 255-4337
Santa Fe Springs (4B190108003)	Mailing Address	P.O. Box 2120 Santa Fe Springs, CA 90670-2120
	Facility Contact, Title, and E-mail	Sarina Morales-Choate, Civil Engineer Assistant smorales-choate@santafesprings.org
Santa Monica (4B190122002)	Mailing Address	1685 Main Street Santa Monica, CA 90401-3295
	Facility Contact, Title, and E-mail	Neal Shapiro, Urban Runoff Coordinator nshapiro@smgov.net
Sierra Madre (4B190209001)	Mailing Address	232 West Sierra Madre Boulevard Sierra Madre, CA 91024-2312
	Facility Contact, Title, and Phone	James Carlson, Management Analyst (626) 355-7135 ext. 803
Signal Hill (4B190210001)	Mailing Address	2175 Cherry Avenue Signal Hill, CA 90755
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
South El Monte (4B190211001)	Mailing Address	1415 North Santa Anita Avenue South El Monte, CA 91733-3389
	Facility Contact and Phone	Anthony Ybarra, City Manager (626) 579-6540
South Gate (4B190212001)	Mailing Address	8650 California Avenue South Gate, CA 90280
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
South Pasadena (4B190213001)	Mailing Address	1414 Mission Street South Pasadena, CA 91030-3298
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
Temple City (4B190214001)	Mailing Address	9701 Las Tunas Drive Temple City, CA 91780-2249
	Facility Contact,	Joe Lambert at (626) 285-2171 or

Permittee (WDID)	Contact Information	
	Phone, and E-mail	John Hunter at (562) 802-7880/jhunter@jlha.net
Torrance (4B190215001)	Mailing Address	3031 Torrance Boulevard Torrance, CA 90503-5059
	Facility Contact and Title	Leslie Cortez, Senior Administrative Assistant
Vernon (4B190216001)	Mailing Address	4305 Santa Fe Avenue Vernon, CA 90058-1786
	Facility Contact and Phone	Claudia Arellano (323) 583-8811
Walnut (4B190217001)	Mailing Address	P.O. Box 682 Walnut, CA 91788
	Facility Contact and Title	Jack Yoshino, Senior Management Assistant
West Covina (4B190218001)	Mailing Address	P.O. Box 1440 West Covina, CA 91793-1440
	Facility Contact, Title, and E-mail	Samuel Gutierrez, Engineering Technician sam.gutierrez@westcovina.org
West Hollywood (4B190219001)	Mailing Address	8300 Santa Monica Boulevard West Hollywood, CA 90069-4314
	Facility Contact, Title, and E-mail	Sharon Perlstein, City Engineer sperlstein@weho.org
Westlake Village (4B190220001)	Mailing Address	31200 Oak Crest Drive Westlake Village, CA 91361
	Facility Contact, Title, Phone, and E-mail	Joe Bellomo, Stormwater Program Manager (805) 279-6856 jbellomo@willdan.com
Whittier (4B190221001)	Mailing Address	13230 Penn Street Whittier, CA 90602-1772
	Facility Contact, Title, and E-mail	David Mochizuki, Director of Public Works dmochizuki@cityofwhittier.org
County of Los Angeles (4B190107099)	Mailing Address	900 South Fremont Avenue Alhambra, CA 91803
	Facility Contact, Title, Phone, and E-mail	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) 458-4300 ghildeb@dpw.lacounty.gov
Los Angeles County Flood Control District (4B190107101)	Mailing Address	900 South Fremont Avenue Alhambra, CA 91803
	Facility Contact, Title, Phone, and E-mail	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) 458-4300 ghildeb@dpw.lacounty.gov

Table 3. Discharge Location

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
All Municipal Separate Storm Sewer System discharge points within Los Angeles County with the exception of the City of Long Beach	Storm Water and Non-Storm Water	Numerous	Numerous	Surface waters identified in Tables 2-1, 2-1a, 2-3, and 2-4, and Appendix 1, Table 1 of the <i>Water Quality Control Plan - Los Angeles Region (Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties)</i> , and other unidentified tributaries to these surface waters within the following Watershed Management Areas: (1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area; (6) San Gabriel River Watershed; and (7) Santa Ana River Watershed. ¹

Table 4. Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, Los Angeles Region on:	November 8, 2012
This Order becomes effective on:	December 28, 2012
This Order expires on:	December 28, 2017
In accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations and Title 40, Part 122 of the Code of Federal Regulations, each Discharger shall file a Report of Waste Discharge as application for issuance of new waste discharge requirements no later than:	180 days prior to the Order expiration date above

¹ Note that the Santa Ana River Watershed lies primarily within the boundaries of the Santa Ana Regional Water Quality Control Board. However, a portion of the Chino Basin subwatershed lies within the jurisdictions of Pomona and Claremont in Los Angeles County. The primary receiving waters within the Los Angeles County portion of the Chino Basin subwatershed are San Antonio Creek and Chino Creek.

In accordance with section 2235.4 of Title 23 of the California Code of Regulations, the terms and conditions of an expired permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on continuation of expired permits are complied with. Accordingly, if a new order is not adopted by the expiration date above, then the Permittees shall continue to implement the requirements of this Order until a new one is adopted.

I, Samuel Unger, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on November 8, 2012.



Samuel Unger, Executive Officer

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II. FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Water Board) finds:

A. Nature of Discharges and Sources of Pollutants

Storm water and non-storm water discharges consist of surface runoff generated from various land uses, which are conveyed via the municipal separate storm sewer system and ultimately discharged into surface waters throughout the region. Discharges of storm water and non-storm water from the Municipal Separate Storm Sewer Systems (MS4s) within the Coastal Watersheds of Los Angeles County convey pollutants to surface waters throughout the Los Angeles Region. In general, the primary pollutants of concern in these discharges identified by the Los Angeles County Flood Control District Integrated Receiving Water Impacts Report (1994-2005) are indicator bacteria, total aluminum, copper, lead, zinc, diazinon, and cyanide. Aquatic toxicity, particularly during wet weather, is also a concern based on a review of Annual Monitoring Reports from 2005-10. Storm water and non-storm water discharges of debris and trash are also a pervasive water quality problem in the Los Angeles Region though significant strides have been made by a number of Permittees in addressing this problem through the implementation of control measures to achieve wasteload allocations established in trash TMDLs.

Pollutants in storm water and non-storm water have damaging effects on both human health and aquatic ecosystems. Water quality assessments conducted by the Regional Water Board have identified impairment of beneficial uses of water bodies in the Los Angeles Region caused or contributed to by pollutant loading from municipal storm water and non-storm water discharges. As a result of these impairments, there are beach postings and closures, fish consumption advisories, local and global ecosystem and aesthetic impacts from trash and debris, reduced habitat for threatened and endangered species, among others. The Regional Water Board and USEPA have established 33 total maximum daily loads (TMDLs) that identify Los Angeles County MS4 discharges as one of the pollutant sources causing or contributing to these water quality impairments.

B. Permit History

Prior to the issuance of this Order, Regional Water Board Order No. 01-182 served as the NPDES Permit for MS4 storm water and non-storm water discharges within the Coastal Watersheds of the County of Los Angeles. The requirements of Order No. 01-182 applied to the Los Angeles County Flood Control District, the unincorporated areas of Los Angeles County under County jurisdiction, and 84 Cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach. The first county-wide MS4 permit for the County of Los Angeles and the incorporated areas therein was Order No. 90-079, adopted by the Regional Water Board on June 18, 1990.

Under Order No. 01-182, the Los Angeles County Flood Control District was designated the Principal Permittee, and the County of Los Angeles and 84 incorporated Cities were each designated Permittees. The Principal Permittee coordinated and facilitated activities necessary to comply with the requirements of Order No. 01-182, but was not responsible for ensuring compliance of any of the other Permittees. The designation of a Principal Permittee has not been carried over from Order No. 01-182.

Order No. 01-182 was subsequently amended by the Regional Water Board on September 14, 2006 by Order No. R4-2006-0074 to incorporate provisions consistent with the assumptions and requirements of the Santa Monica Bay Beaches Dry Weather Bacteria TMDL (SMB Dry Weather Bacteria TMDL) waste load allocations (WLAs). As a result of a legal challenge to Order No. R4-2006-0074, the Los Angeles County Superior Court issued a peremptory writ of mandate on July 23, 2010 requiring the Regional Water Board to void and set aside the amendments adopted through Order No. R4-2006-0074 in Order No. 01-182. The Court concluded that the permit proceeding at which Order No. R4-2006-0074 was adopted was procedurally deficient. The Court did not address the substantive merits of the amendments themselves, and thus made no determination about the substantive validity of Order No. R4-2006-0074. In compliance with the writ of mandate, the Regional Water Board voided and set aside the amendments adopted through Order No. R4-2006-0074 on April 14, 2011. This Order reincorporates requirements equivalent to the 2006 provisions to implement the SMB Dry Weather Bacteria TMDL.

In addition, Order No. 01-182 was amended on August 9, 2007 by Order No. R4-2007-0042 to incorporate provisions consistent with the assumptions and requirements of the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, and was again amended on December 10, 2009 by Order No. R4-2009-0130 to incorporate provisions consistent with the assumptions and requirements of the Los Angeles River Watershed Trash TMDL.

C. Permit Application

On June 12, 2006, prior to the expiration date of Order No. 01-182, all of the Permittees filed Reports of Waste Discharge (ROWD) applying for renewal of their waste discharge requirements that serve as an NPDES permit to discharge storm water and authorized and conditionally exempt non-storm water through their MS4 to surface waters. Specifically, the Los Angeles County Flood Control District (LACFCD) submitted an ROWD application on behalf of itself, the County of Los Angeles, and 78 other Permittees. Several Permittees under Order No. 01-182 elected to not be included as part of the Los Angeles County Flood Control District's ROWD. On June 12, 2006, the Cities of Downey and Signal Hill each submitted an individual ROWD application requesting a separate MS4 Permit; and the Upper San Gabriel River Watershed Coalition, comprised of the cities of Azusa, Claremont, Glendora, Irwindale, and Whittier also submitted an individual ROWD application requesting a separate MS4 Permit for these cities. In 2010, the LACFCD withdrew from its participation in the 2006 ROWD submitted in conjunction with the County and 78 other co-permittees, and submitted a new ROWD also requesting an individual MS4 permit. The LACFCD also requested that, if an individual MS4 permit was not issued to it, it no longer be designated as the

Principal Permittee and it be relieved of Principal Permittee responsibilities. The Regional Water Board evaluated each of the 2006 ROWDs and notified all of the Permittees that their ROWDs did not satisfy federal storm water regulations contained in the USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule, August 9, 1996 (61 *Fed Reg.* 41697). Because each ROWD did not satisfy federal requirements, the Regional Water Board deemed all four 2006 ROWDs incomplete. The Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements for MS4s.

Though five separate ROWDs were submitted, the Regional Water Board retains discretion as the permitting authority to determine whether to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis (Clean Water Act (CWA) § 402(p)(3)(B)(i); 40 CFR section 122.26, subdivisions (a)(1)(v) and (a)(3)(ii)). Because of the complexity and networking of the MS4 within Los Angeles County, which often results in commingled discharges, the Regional Water Board has previously adopted a system-wide approach to permitting MS4 discharges within Los Angeles County.

In evaluating the five separate ROWDs, the Regional Water Board considered the appropriateness of permitting discharges from MS4s within Los Angeles County on a system-wide or jurisdiction-wide basis or a combination of both. Based on that evaluation, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. In order to provide individual Permittees with more specific requirements, certain provisions of this Order are organized by watershed management area, which is appropriate given the requirements to implement 33 watershed-based TMDLs. The Regional Water Board also determined that because the LACFCD owns and operates large portions of the MS4 infrastructure, including but not limited to catch basins, storm drains, outfalls and open channels, in each coastal watershed management area within Los Angeles County, the LACFCD should remain a Permittee in the single system-wide permit; however, this Order relieves the LACFCD of its role as "Principal Permittee."

D. Permit Coverage and Facility Description

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach (see Table 5, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Dischargers, discharge storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems. For the purposes of this Order, references to the "Discharger" or "Permittee" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger, or Permittees herein.

The area covered under this Order encompasses more than 3,000 square miles. This area contains a vast drainage network that serves incorporated and unincorporated areas in every Watershed Management Area within the Los Angeles Region. Maps

depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

Table 5. List of Permittees

Agoura Hills	Hawaiian Gardens	Pomona
Alhambra	Hawthorne	Rancho Palos Verdes
Arcadia	Hermosa Beach	Redondo Beach
Artesia	Hidden Hills	Rolling Hills
Azusa	Huntington Park	Rolling Hills Estates
Baldwin Park	Industry	Rosemead
Bell	Inglewood	San Dimas
Bell Gardens	Irwindale	San Fernando
Bellflower	La Canada Flintridge	San Gabriel
Beverly Hills	La Habra Heights	San Marino
Bradbury	La Mirada	Santa Clarita
Burbank	La Puente	Santa Fe Springs
Calabasas	La Verne	Santa Monica
Carson	Lakewood	Sierra Madre
Cerritos	Lawndale	Signal Hill
Claremont	Lomita	South El Monte
Commerce	Los Angeles	South Gate
Compton	Lynwood	South Pasadena
Covina	Malibu	Temple City
Cudahy	Manhattan Beach	Torrance
Culver City	Maywood	Vernon
Diamond Bar	Monrovia	Walnut
Downey	Montebello	West Covina
Duarte	Monterey Park	West Hollywood
El Monte	Norwalk	Westlake Village
El Segundo	Palos Verdes Estates	Whittier
Gardena	Paramount	County of Los Angeles
Glendale	Pasadena	Los Angeles County Flood
Glendora	Pico Rivera	Control District

E. Los Angeles County Flood Control District

In 1915, the California Legislature enacted the Los Angeles County Flood Control Act, establishing the Los Angeles County Flood Control District (LACFCD). The objects and purposes of the Act are to provide for the control and conservation of the flood, storm and other waste waters within the flood control district. Among its other powers, the LACFCD also has the power to preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands. The LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.

The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,000 catch basins, and several dams. Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

The LACFCD's system conveys both storm and non-storm water throughout the Los Angeles basin. Other Permittees' MS4s connect and discharge to the LACFCD's system.

The waters and pollutants discharged from the LACFCD's system come from various sources. These sources can include storm water and non-storm water from the Permittees under this permit and other NPDES and non-NPDES Permittees discharging into the LACFCD's system, including industrial waste water dischargers, waste water treatment facilities, industrial and construction stormwater Permittees, water suppliers, government entities, CERCLA potentially responsible parties, and Caltrans. Sources can also include discharges from school districts that do not operate large or medium-sized municipal storm sewers and discharges from entities that have waste discharge requirements or waivers of waste discharge requirements.

Unlike other Permittees, including the County of Los Angeles, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways.

The LACFCD in contrast to the County of Los Angeles has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries. Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, including the ability to control through interagency agreements among co-Permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4.

F. Permit Scope

This Order regulates municipal discharges of storm water and non-storm water from the Permittees' MS4s. Section 122.26(b)(8) of title 40 of the Code of Federal Regulations (CFR) defines an MS4 as "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) [o]wned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian

tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) [d]esignated or used for collecting or conveying storm water; (iii) [w]hich is not a combined sewer; and (iv) [w]hich is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.”

Storm water discharges consist of those discharges that originate from precipitation events. Federal regulations define “storm water” as “storm water runoff, snow melt runoff, and surface runoff and drainage.” (40 CFR § 122.26(b)(13).) While “surface runoff and drainage” is not defined in federal law, USEPA’s preamble to its final storm water regulations demonstrates that the term is related to precipitation events such as rain and/or snowmelt. (55 *Fed. Reg.* 47990, 47995-96 (Nov. 16, 1990)).

Non-storm water discharges consist of all discharges through an MS4 that do not originate from precipitation events. Non-storm water discharges through an MS4 are prohibited unless authorized under a separate NPDES permit; authorized by USEPA pursuant to Sections 104(a) or 104(b) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); composed of natural flows; the result of emergency fire fighting activities; or conditionally exempted in this Order.

A permit issued to more than one Permittee for MS4 discharges may contain separate storm water management programs for particular Permittees or groups of Permittees. 40 CFR § 122.26(d)(2)(iv). Given the LACFCD’s limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program. However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.

G. Geographic Coverage and Watershed Management Areas

The municipal storm water and non-storm water discharges flow into receiving waters in the Watershed Management Areas of the Santa Clara River Watershed; Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; Los Angeles River Watershed; Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; Los Cerritos Channel and Alamitos Bay Watershed Management Area; San Gabriel River Watershed; and Santa Ana River Watershed.

This Order redefines Watershed Management Areas (WMAs) consistent with the delineations used in the Regional Water Board's Watershed Management Initiative. Permittees included in each of the WMAs are listed in Attachment K.

Maps depicting each WMA, its subwatersheds, and the major receiving waters therein are included in Attachment B.

Federal, state, regional or local entities in jurisdictions outside the Los Angeles County Flood Control District, and not currently named as Permittee to this Order, may operate MS4 facilities and/or discharge to the MS4 and water bodies covered by this Order. Pursuant to 40 CFR sections 122.26(d)(1)(ii) and 122.26(d)(2)(iv), each Permittee shall maintain the necessary legal authority to control the contribution of pollutants to its MS4 and shall include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary.

Sources of MS4 discharges into receiving waters in the County of Los Angeles but not covered by this Order include the following:

- About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and then to Santa Monica Bay,
- About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and then to Santa Monica Bay, and
- About 86 square miles of area in Orange County, which drain into Coyote Creek and then into the San Gabriel River.

Specifically, the Orange County Flood Control District (OCFCD) owns and operates the Los Alamitos Retarding Basin and Pumping Station (Los Alamitos Retarding Basin). The Los Alamitos Retarding Basin is within the San Gabriel River Watershed, and is located adjacent to the Los Angeles and Orange County boundary. The majority of the 30-acre Los Alamitos Retarding Basin is in Orange County; however, the northwest corner of the facility is located in the County of Los Angeles. Storm water and non-storm water discharges, which drain to the Los Alamitos Retarding Basin, are pumped to the San Gabriel River Estuary (SGR Estuary) through pumps and subterranean piping. The pumps and discharge point are located in the County of Los Angeles.

The OCFCD pumps the water within the Los Alamitos Retarding Basin to the San Gabriel River Estuary through four discharge pipes, which are covered by tide gates. The discharge point is located approximately 700 feet downstream from the 2nd Street Bridge in Long Beach. The total pumping capacity of the four pumps is 800 cubic feet per second (cfs). There is also a 5 cfs sump pump that discharges nuisance flow continuously to the Estuary through a smaller diameter uncovered pipe.

The discharge from the Los Alamitos Retarding Basin is covered under the Orange County Municipal NPDES Storm Water Permit (NPDES Permit No. CAS618030, Santa Ana Regional Water Quality Control Board Order No. R8-2010-0062), which was issued to the County of Orange, Orange County Flood Control District and Incorporated Cities on May 22, 2009. The Orange County MS4 Permit references the San Gabriel River Metals and Selenium TMDL (Metals TMDL). The waste load allocations listed in the

Metals TMDL for Coyote Creek are included in the Orange County MS4 Permit. However, the Orange County MS4 Permit does not contain the dry weather copper waste load allocations assigned to the Estuary.

H. Legal Authorities

This Order is issued pursuant to CWA section 402 and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). This Order serves as an NPDES permit for point source discharges from the Permittees' MS4s to surface waters. This Order also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the California Water Code (commencing with Section 13260).

- I. Municipal Separate Storm Sewer System Requirements.** The 1972 Clean Water Act² established the NPDES Program to regulate the discharge of pollutants from point sources to waters of the United States. However, pollution from storm water and dry-weather urban runoff was largely unabated for over a decade. In response to the 1987 Amendments to the Clean Water Act, USEPA developed Phase I of the NPDES Storm Water Permitting Program in 1990, which established a framework for regulating municipal and industrial discharges of storm water and non-storm water. The Phase I program addressed sources of storm water and dry-weather urban runoff that had the greatest potential to negatively impact water quality. In particular, under Phase I, USEPA required NPDES Permit coverage for discharges from medium and large MS4 with populations of 100,000 or more. Operators of MS4s regulated under the Phase I NPDES Storm Water Program were required to obtain permit coverage for municipal discharges of storm water and non-storm water to waters of the United States

Early in the history of this MS4 Permit, the Regional Water Board designated the MS4s owned and/or operated by the incorporated cities and Los Angeles County unincorporated areas within the Coastal Watersheds of Los Angeles County as a large MS4 due to the total population of Los Angeles County, including that of unincorporated and incorporated areas, and the interrelationship between the Permittees' MS4s, pursuant to 40 CFR section 122.26(b)(4). The total population of the cities and County unincorporated areas covered by this Order was 9,519,338 in 2000 and has increased by approximately 300,000 to 9,818,605 in 2010, according to the United States Census.

This Order implements the federal Phase I NPDES Storm Water Program requirements. These requirements include three fundamental elements: (i) a requirement to effectively prohibit non-storm water discharges through the MS4, (ii) requirements to implement controls to reduce the discharge of pollutants to the maximum extent practicable, and (iii) other provisions the Regional Water Board has determined appropriate for the control of such pollutants.

- J. Background and Rationale for Requirements.** The Regional Water Board developed the requirements in this Order based on information submitted as part of the Permittees' applications, through monitoring and reporting programs, and other available

² Federal Water Pollution Control Act; 33 U.S.C. § 1251 et seq., which, as amended in 1977, is commonly known as the Clean Water Act.

information. In accordance with federal regulations at 40 CFR section 124.8, a Fact Sheet (Attachment F) has been prepared to explain the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing this Order. The Fact Sheet is hereby incorporated into this Order and also constitutes part of the Findings of the Regional Water Board for this Order. Attachments A through E and G through R are also incorporated into this Order.

K. Water Quality Control Plans. The Clean Water Act requires the Regional Water Board to establish water quality standards for each water body in its region. Water quality standards include beneficial uses, water quality objectives and criteria that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. The Regional Water Board adopted a *Water Quality Control Plan - Los Angeles Region* (hereinafter Basin Plan) on June 13, 1994 and has amended it on multiple occasions since 1994. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Los Angeles Region. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Basin Plan. Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 generally include those listed below.

Table 6. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within Los Angeles County coastal watersheds with the exception of the City of Long Beach	Multiple surface water bodies of the Los Angeles Region	Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Ground Water Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Limited Contact Recreation (LREC-1); Non-Contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Areas of Special Biological Significance (BIOL); Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Marine Habitat (MAR); Wetland Habitat (WET); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); Shellfish Harvesting (SHELL)

1. Total Maximum Daily Loads (TMDLs)

Clean Water Act section 303(d)(1) requires each state to identify the waters within its boundaries that do not meet water quality standards. Water bodies that do not meet water quality standards are considered impaired and are placed on the state's "CWA Section 303(d) List". For each listed water body, the state is required to establish a TMDL of each pollutant impairing the water quality standards in that water body. A TMDL is a tool for implementing water quality standards and is based on the relationship between pollution sources and in-stream water quality conditions. The

TMDL establishes the allowable pollutant loadings for a water body and thereby provides the basis to establish water quality-based controls. These controls should provide the pollution reduction necessary for a water body to meet water quality standards. A TMDL is the sum of the allowable pollutant loads of a single pollutant from all contributing point sources (the waste load allocations or WLAs) and non-point sources (load allocations or LAs), plus the contribution from background sources and a margin of safety. (40 CFR section 130.2(i).) MS4 discharges are considered point source discharges.

Numerous receiving waters within Los Angeles County do not meet water quality standards or fully support beneficial uses and therefore have been classified as impaired on the State's 303(d) List. The Regional Water Board and USEPA have each established TMDLs to address many of these water quality impairments. Pursuant to CWA section 402(p)(B)(3)(iii) and 40 CFR section 122.44(d)(1)(vii)(B), this Order includes requirements that are consistent with and implement WLAs that are assigned to discharges from the Los Angeles County MS4 from 33 State-adopted and USEPA established TMDLs. This Order requires Permittees to comply with the TMDL Provisions in Part VI.E and Attachments L through R, which are consistent with the assumptions and requirements of the TMDL WLAs assigned to discharges from the Los Angeles County MS4. A comprehensive list of TMDLs by watershed management area and the Permittees subject to each TMDL is included in Attachment K.

Waste load allocations in these TMDLs are expressed in several ways depending on the nature of the pollutant and its impacts on receiving waters and beneficial uses. Bacteria WLAs assigned to MS4 discharges are expressed as the number of allowable exceedance days that a water body may exceed the Basin Plan water quality objectives for protection of the REC-1 beneficial use. Since the TMDLs and the WLAs contained therein are expressed as receiving water conditions, receiving water limitations have been included in this Order that are consistent with and implement the allowable exceedance day WLAs. Water quality-based effluent limitations are also included equivalent to the Basin Plan water quality objectives to allow the opportunity for Permittees to individually demonstrate compliance at an outfall or jurisdictional boundary, thus isolating the Permittee's pollutant contributions from those of other Permittees and from other pollutant sources to the receiving water.

WLAs for trash are expressed as progressively decreasing allowable amounts of trash discharges from a Permittee's jurisdictional area within the drainage area to the impaired water body. The Trash TMDLs require each Permittee to make annual reductions of its discharges of trash over a set period, until the numeric target of zero trash discharged from the MS4 is achieved. The Trash TMDLs specify a specific formula for calculating and allocating annual reductions in trash discharges from each jurisdictional area within a watershed. The formula results in specified annual amounts of trash that may be discharged from each jurisdiction into the receiving waters. Translation of the WLAs or compliance points described in the TMDLs into jurisdiction-specific load reductions from the baseline levels, as specified

in the TMDL, logically results in the articulation of an annual limitation on the amount of a pollutant that may be discharged. The specification of allowable annual trash discharge amounts meets the definition of an "effluent limitation", as that term is defined in subdivision (c) of section 13385.1 of the California Water Code. Specifically, the trash discharge limitations constitute a "numeric restriction ... on the quantity [or] discharge rate ... of a pollutant or pollutants that may be discharged from an authorized location."

TMDL WLAs for other pollutants (e.g., metals and toxics) are expressed as concentration and/or mass and water quality-based effluent limitations have been specified consistent with the expression of the WLA, including any applicable averaging periods. Some TMDLs specify that, if certain receiving water conditions are achieved, such achievement constitutes attainment of the WLA. In these cases, receiving water limitations and/or provisions outlining these alternate means of demonstrating compliance are included in the TMDL provisions in Part VI.E of this Order.

The inclusion of water quality-based effluent limitations and receiving water limitations to implement applicable WLAs provides a clear means of identifying required water quality outcomes within the permit and ensures accountability by Permittees to implement actions necessary to achieve the limitations.

A number of the TMDLs for bacteria, metals, and toxics establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL. TMDLs address commingled MS4 discharges by assigning a WLA to a group of MS4 Permittees based on co-location within the same subwatershed. Permittees with co-mingled MS4 discharges are jointly responsible for meeting the water quality-based effluent limitations and receiving water limitations assigned to MS4 discharges in this Order. "Joint responsibility" means that the Permittees that have commingled MS4 discharges are responsible for implementing programs in their respective jurisdictions, or within the MS4 for which they are an owner and/or operator, to meet the water quality-based effluent limitations and/or receiving water limitations assigned to such commingled MS4 discharges.

In these cases, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators (40 CFR § 122.26(a)(3)(vi)). Individual co-permittees are only responsible for their contributions to the commingled MS4 discharge. This Order does not require a Permittee to individually ensure that a commingled MS4 discharge meets the applicable water quality-based effluent limitations included in this Order, unless such Permittee is shown to be solely responsible for an exceedance.

Additionally, this Order allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable water quality-based effluent limitations and/or receiving

water limitations. If such a demonstration is made, though the Permittee's discharge may commingle with that of other Permittees, the Permittee would not be held jointly responsible for the exceedance of the water quality-based effluent limitation or receiving water limitation. Individual co-permittees who demonstrate compliance with the water quality-based effluent limitations will not be held responsible for violations by non-compliant co-permittees.

Given the interconnected nature of the Permittees' MS4s, however, the Regional Water Board expects Permittees to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system through inter-agency agreements or other formal arrangements.

L. Ocean Plan. In 1972, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (hereinafter Ocean Plan). The State Water Board adopted the most recent amended Ocean Plan on September 15, 2009. The Office of Administration Law approved it on March 10, 2010. On October 8, 2010, USEPA approved the 2009 Ocean Plan. The Ocean Plan is applicable, in its entirety, to the ocean waters of the State. In order to protect beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Ocean Plan. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized in the table below.

Table 7. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within Los Angeles County coastal watersheds with the exception of the City of Long Beach	Pacific Ocean	Industrial Water Supply (IND); Water Contact (REC-1) and Non-Contact Recreation (REC-2), including aesthetic enjoyment; Navigation (NAV); Commercial and Sport Fishing (COMM); Mariculture; Preservation and Enhancement of Designated Areas of Special Biological Significance (ASBS); Rare and Endangered Species (RARE); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPWN) and Shellfish Harvesting (SHELL)

M. Antidegradation Policy

40 CFR section 131.12 requires that state water quality standards include an antidegradation policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining the Quality of the Waters of the State"). Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is

justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. The permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

- N. Anti-Backsliding Requirements.** Section 402(o)(2) of the CWA and federal regulations at 40 CFR section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the previous permit.
- O. Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code, §§ 2050 to 2115.5) or the Federal Endangered Species Act (16 U.S.C.A., §§ 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the United States. Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.
- P. Monitoring and Reporting.** Section 308(a) of the federal Clean Water Act, and 40 CFR sections 122.41(h), (j)-(l), 122.41(i), and 122.48, require that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. The Monitoring and Reporting Program establishes monitoring, reporting, and recordkeeping requirements that implement the federal and State laws and/or regulations. This Monitoring and Reporting Program is provided in Attachment E.
- Q. Standard and Special Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR section 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR section 122.42, are provided in Attachment D. Dischargers must comply with all standard provisions and with those additional conditions that are applicable under 40 CFR section 122.42 provided in Attachment D. The Regional Water Board has also included in Part VI of this Order various special provisions applicable to the Dischargers. A rationale for the various special provisions contained in this Order is provided in the attached Fact Sheet (Attachment F).
- R. State Mandates**
Article XIII B, Section 6(a) of the California Constitution provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The requirements of this Order do not constitute state mandates that are subject to a

subvention of funds for several reasons as described in detail in the attached Fact Sheet (Attachment F).

- S. California Water Code Section 13241.** The California Supreme Court has ruled that although California Water Code section 13263 requires the State and Regional Water Boards (collectively, Water Boards) to consider the factors set forth in California Water Code section 13241 when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restriction that are less stringent than the applicable federal regulations require. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 618, 626-627). However, when the pollutant restrictions in an NPDES permit are more stringent than federal law requires, California Water Code section 13263 requires that the Water Boards consider the factors described in section 13241 as they apply to those specific restrictions. As noted in the preceding finding, the Regional Water Board finds that the requirements in this permit are not more stringent than the minimum federal requirements. Therefore, a 13241 analysis is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water discharges into the MS4, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Regional Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law. Notwithstanding the above, the Regional Water Board has developed an economic analysis of the permit's requirements, consistent with California Water Code section 13241. That analysis is provided in the Fact Sheet (Attachment F of this Order).
- T. California Environmental Quality Act (CEQA).** This action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21100, et seq.) pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.)
- U. Notification of Interested Parties.** In accordance with State and federal laws and regulations, the Regional Water Board has notified the Permittees and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharges authorized by this Order and has provided them with an opportunity to provide written and oral comments. Details of notification, as well as the meetings and workshops held on drafts of the permit, are provided in the Fact Sheet of this Order.
- V. Consideration of Public Comment.** The Regional Water Board, in a public meeting, heard and considered all oral and written comments pertaining to the discharges authorized by this Order and the requirements contained herein. The Regional Water Board has prepared written responses to all timely comments, which are incorporated by reference as part of this Order.
- W.** This Order serves as an NPDES permit pursuant to CWA section 402 or amendments thereto, and becomes effective fifty (50) days after the date of its adoption, provided that the Regional Administrator, USEPA, Region IX, expresses no objections.
- X.** This Order supersedes Order No. 01-182 as amended, except for enforcement purposes.

Y. Review by the State Water Board. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the Regional Water Board action, except that if the thirtieth day following the action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code (commencing with section 13000), and regulations, plans, and policies adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following requirements:

III. DISCHARGE PROHIBITIONS

A. Prohibitions – Non-Storm Water Discharges

1. **Prohibition of Non-Storm Water Discharges.** Each Permittee shall, for the portion of the MS4 for which it is an owner or operator, prohibit non-storm water discharges through the MS4 to receiving waters except where such discharges are either:
 - a. Authorized non-storm water discharges separately regulated by an individual or general NPDES permit;
 - b. Temporary non-storm water discharges authorized by USEPA³ pursuant to sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that either: (i) will comply with water quality standards as applicable or relevant and appropriate requirements (“ARARs”) under section 121(d)(2) of CERCLA; or (ii) are subject to either (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or (b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation pursuant to 40 CFR. section 300.415(j);
 - c. Authorized non-storm water discharges from emergency fire fighting activities (i.e., flows necessary for the protection of life or property)⁴;
 - d. Natural flows, including:
 - i. Natural springs;

³ These typically include short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA.

⁴ Discharges from vehicle washing, building fire suppression system maintenance and testing (e.g., sprinkler line flushing), fire hydrant maintenance and testing, and other routine maintenance activities are not considered emergency fire fighting activities.

- ii. Flows from riparian habitats and wetlands;
 - iii. Diverted stream flows, authorized by the State or Regional Water Board;
 - iv. Uncontaminated ground water infiltration⁵;
 - v. Rising ground waters, where ground water seepage is not otherwise covered by a NPDES permit⁶; or
- e. Conditionally exempt non-storm water discharges in accordance with Parts III.A.2 and III.A.3 below.

2. Conditional Exemptions from Non-Storm Water Discharge Prohibition. The following categories of non-storm water discharges are conditionally exempt from the non-storm water discharge prohibition, provided they meet all required conditions specified below, or as otherwise approved by the Regional Water Board Executive Officer, in all areas regulated by this Order with the exception of direct discharges to Areas of Special Biological Significance (ASBS) within Los Angeles County. Conditional exemptions from the prohibition on non-storm water discharges through the MS4 to an ASBS are identified in Part III.A.3 below.

- a. Conditionally Exempt Essential Non-Storm Water Discharges: These consist of those discharges that fall within one of the categories below; meet all required best management practices (BMPs) as specified in i. and ii. below, including those enumerated in the referenced BMP manuals; are essential public services discharge activities; and are directly or indirectly required by other state or federal statute and/or regulation:
- i. Discharges from essential *non-emergency* fire fighting activities⁷ provided appropriate BMPs are implemented based on the CAL FIRE, Office of the State Fire Marshal's *Water-Based Fire Protection Systems Discharge Best Management Practices Manual* (September 2011) for water-based fire protection system discharges, and based on Riverside County's *Best Management Practices Plan for Urban Runoff Management* (May 1, 2004) or equivalent BMP manual for fire training activities and post-emergency fire fighting activities;
 - ii. Discharges from drinking water supplier distribution systems, where not otherwise regulated by an individual or general NPDES permit⁸, provided

⁵ Uncontaminated ground water infiltration is water other than waste water that enters the MS4 (including foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (See 40 CFR § 35.2005(20).)

⁶ A NPDES permit for discharges associated with ground water dewatering is required within the Los Angeles Region.

⁷ This includes fire fighting training activities, which simulate emergency responses, and routine maintenance and testing activities necessary for the protection of life and property, including building fire suppression system maintenance and testing (e.g. sprinkler line flushing) and fire hydrant testing and maintenance. Discharges from vehicle washing are not considered essential and as such are not conditionally exempt from the non-storm water discharge prohibition.

⁸ Drinking water supplier distribution system releases means sources of flows from drinking water storage, supply and distribution systems (including flows from system failures), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and minor non-invasive well maintenance activities not involving chemical addition(s) where not otherwise regulated by NPDES Permit No. CAG674001, NPDES Permit No. CAG994005, or another separate NPDES permit.

appropriate BMPs are implemented based on the American Water Works Association (California-Nevada Section) *Guidelines for the Development of Your Best Management Practices (BMP) Manual for Drinking Water System Releases* (2005) or equivalent industry standard BMP manual. Additionally, each Permittee shall work with drinking water suppliers that may discharge to the Permittee's MS4 to ensure for all discharges greater than 100,000 gallons: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern⁹ in the drinking water supplier distribution system release; and (3) record keeping by the drinking water supplier. Permittees shall require that the following information is maintained by the drinking water supplier(s) for all discharges to the MS4 (planned and unplanned) greater than 100,000 gallons: name of discharger, date and time of notification (for planned discharges), method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type of dechlorination equipment used, type of dechlorination chemicals used, concentration of residual chlorine, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be retained for five years and made available upon request by the Permittee or Regional Water Board.

- b. Those discharges that fall within one of the categories below, provided that the discharge itself is not a source of pollutants and meets all required conditions specified in Table 8 or as otherwise specified or approved by the Regional Water Board Executive Officer:
- i. Dewatering of lakes¹⁰;
 - ii. Landscape irrigation;
 - iii. Dechlorinated/debrominated swimming pool/spa discharges¹¹, where not otherwise regulated by a separate NPDES permit;
 - iv. Dewatering of decorative fountains¹²;
 - v. Non-commercial car washing by residents or by non-profit organizations;

⁹ Pollutants of concern from drinking water supplier distribution system releases may include trash and debris, including organic matter, total suspended solids (TSS), residual chlorine, pH, and any pollutant for which there is a water quality-based effluent limitation (WQBEL) in Part VI.E applicable to discharges from the MS4 to the receiving water. Determination of the pollutants of concern for a particular discharge shall be based on an evaluation of the potential for the constituent(s) to be present in the discharge at levels that may cause or contribute to exceedances of applicable WQBELs or receiving water limitations.

¹⁰ Dewatering of lakes does not include dewatering of drinking water reservoirs. Dewatering of drinking water reservoirs is addressed in Part III.A.2.a.ii.

¹¹ Conditionally exempt dechlorinated/debrominated swimming pool/spa discharges do not include swimming pool/spa filter backwash or swimming pool/spa water containing bacteria, detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.

¹² Conditionally exempt discharges from dewatering of decorative fountains do not include fountain water containing bacteria, detergents, wastes, or algaecides, or any other chemicals in excess of applicable water quality objectives.

- vi. Street/sidewalk wash water¹³.

3. Conditional Exemptions from Non-Storm Water Discharge Prohibition within an ASBS. The following non-storm water discharges from the MS4 directly to an ASBS are conditionally exempt pursuant to the California Ocean Plan as specified below, provided that:

- a. The discharges are essential for emergency response purposes, structural stability, slope stability or occur naturally, including the following discharges:
 - i. Discharges associated with emergency fire fighting activities (i.e., flows necessary for the protection of life or property)¹⁴;
 - ii. Foundation and footing drains;
 - iii. Water from crawl space or basement pumps;
 - iv. Hillside dewatering;
 - v. Naturally occurring ground water seepage via a MS4; and
 - vi. Non-anthropogenic flows from a naturally occurring stream via a culvert or MS4, as long as there are no contributions of anthropogenic runoff.
- b. The discharges fall within one of the conditionally exempt essential non-storm water discharge categories in Part III.A.2.a. above.
- c. Conditionally exempt non-storm water discharges shall not cause or contribute¹⁵ to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations in this Order or the water quality objectives in Chapter II of the Ocean Plan, or alter natural ocean water quality in an ASBS.

4. Permittee Requirements. Each Permittee shall:

- a. Develop and implement procedures to ensure that a discharger, if not a named Permittee in this Order, fulfills the following for non-storm water discharges to the Permittee's MS4:
 - i. Notifies the Permittee of the planned discharge in advance, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual;
 - ii. Obtains any local permits required by the MS4 owner(s) and/or operator(s);

¹³ Conditionally exempt non-storm water discharges of street/sidewalk wash water only include those discharges resulting from use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area in accordance with Regional Water Board Resolution No. 98-08. Conditionally exempt non-storm water discharges of street/sidewalk wash water do not include hosing of any sidewalk or street with a garden hose with a pressure nozzle.

¹⁴ See note 4.

¹⁵ Based on the water quality characteristics of the conditionally exempt non-storm water discharge itself.

- iii. Provides documentation that it has obtained any other necessary permits or water quality certifications¹⁶ for the discharge;
 - iv. Conducts monitoring of the discharge, if required by the Permittee;
 - v. Implements BMPs and/or control measures as specified in Table 8 or in the applicable BMP manual(s) as a condition of the approval to discharge into the Permittee's MS4; and
 - vi. Maintains records of its discharge to the MS4, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual. For lake dewatering, Permittees shall require that the following information is maintained by the lake owner / operator: name of discharger, date and time of notification, method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be made available upon request by the Permittee or Regional Water Board.
- b. Develop and implement procedures that minimize the discharge of landscape irrigation water into the MS4 by promoting conservation programs.
- i. Permittees shall coordinate with the local water purveyor(s), where applicable, to promote landscape water use efficiency requirements for existing landscaping, use of drought tolerant, native vegetation, and the use of less toxic options for pest control and landscape management.
 - ii. Permittees shall develop and implement a coordinated outreach and education program to minimize the discharge of irrigation water and pollutants associated with irrigation water consistent with Part VI.D.4.c of this Order (Public Information and Participation Program).
- c. Evaluate monitoring data collected pursuant to the Monitoring and Reporting Program (MRP) of this Order (Attachment E), and any other associated data or information, and determine whether any of the authorized or conditionally exempt non-storm water discharges identified in Parts III.A.1, III.A.2, and III.A.3 above are a source of pollutants that may be causing or contributing to an exceedance of applicable receiving water limitations in Part V and/or water quality-based effluent limitations in Part VI.E. To evaluate monitoring data, the Permittee shall either use applicable interim or final water quality-based effluent limitations for the pollutant or, if there are no applicable interim or final water quality-based effluent limitations for the pollutant, use applicable action levels provided in Attachment G. Based on non-storm water outfall-based monitoring as implemented through the MRP, if monitoring data show

¹⁶ Pursuant to the Federal Clean Water Act § 401.

exceedances of applicable water quality-based effluent limitations or action levels, the Permittee shall take further action to determine whether the discharge is causing or contributing to exceedances of receiving water limitations in Part V.

- d. If the Permittee determines that any of the conditionally exempt non-storm water discharges identified in Part III.A.2.b above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, the Permittee(s) shall report its findings to the Regional Water Board in its annual report. Based on this determination, the Permittee(s) shall also either:
 - i. Effectively prohibit¹⁷ the non-storm water discharge to the MS4; or
 - ii. Impose conditions in addition to those in Table 8, subject to approval by the Regional Water Board Executive Officer, on the non-storm water discharge such that it will not be a source of pollutants; or
 - iii. Require diversion of the non-storm water discharge to the sanitary sewer; or
 - iv. Require treatment of the non-storm water discharge prior to discharge to the receiving water.
 - e. If the Permittee determines that any of the authorized or conditionally exempt essential non-storm water discharges identified in Parts III.A.1.a through III.A.1.c, III.A.2.a, or III.A.3 above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, the Permittee shall notify the Regional Water Board within 30 days if the non-storm water discharge is an authorized discharge with coverage under a separate NPDES permit or authorized by USEPA under CERCLA in the manner provided in Part III.A.1.b above, or a conditionally exempt essential non-storm water discharge or emergency non-storm water discharge.
 - f. If the Permittee prohibits the discharge from the MS4, as per Part III.A.4.d.i, then the Permittee shall implement procedures developed under Part VI.D.9 (Illicit Connections and Illicit Discharges Elimination Program) in order to eliminate the discharge to the MS4.
5. If a Permittee demonstrates that the water quality characteristics of a specific authorized or conditionally exempt essential non-storm water discharge resulted in an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations during a specific sampling event, the Permittee shall not be found in violation of applicable receiving water limitations and/or water quality-based effluent limitations for that specific sampling event. Such

¹⁷ To "effectively prohibit" means to not allow the non-storm water discharge through the MS4 unless the discharger obtains coverage under a separate NPDES permit prior to discharge to the MS4.

demonstration must be based on source specific water quality monitoring data from the authorized or conditionally exempt essential non-storm water discharge or other relevant information documenting the characteristics of the specific non-storm water discharge as identified in Table 8.

6. Notwithstanding the above, the Regional Water Board Executive Officer, based on an evaluation of monitoring data and other relevant information for specific categories of non-storm water discharges, may modify a category or remove categories of conditionally exempt non-storm water discharges from Parts III.A.2 and III.A.3 above if the Executive Officer determines that a discharge category is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, or may require that a discharger obtain coverage under a separate individual or general State or Regional Water Board permit for a non-storm water discharge.

Table 8. Required Conditions for Conditionally Exempt Non-Storm Water Discharges

Discharge Category	General Conditions Under Which Discharge Through the MS4 is Allowed	Conditions/BMPs that are Required to be Implemented Prior to Discharge Through the MS4
All Discharge Categories	See discharge specific conditions below.	<p>Ensure conditionally exempt non-storm water discharges avoid potential sources of pollutants in the flow path to prevent introduction of pollutants to the MS4 and receiving water.</p> <p>Whenever there is a discharge of 100,000 gallons or more into the MS4, Permittees shall require advance notification by the discharger to the potentially affected MS4 Permittees, including at a minimum the LACFCD, if applicable, and the Permittee with jurisdiction over the land area from which the discharge originates.</p>
Dewatering of lakes	Discharge allowed only if all necessary permits/water quality certifications for dredge and fill activities, including water diversions, are obtained prior to discharge.	<p>Ensure procedures for advanced notification by the lake owner / operator to the Permittee(s) no less than 72 hours prior to the planned discharge.</p> <p>Immediately prior to discharge, visible trash on the shoreline or on the surface of the lake shall be removed and disposed of in a legal manner.</p> <p>Immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.</p> <p>Discharges shall be volumetrically and velocity controlled to minimize resuspension of sediments.</p> <p>Measures shall be taken to stabilize lake bottom sediments.</p> <p>Ensure procedures for water quality monitoring for pollutants of concern¹⁸ in the lake.</p> <p>Ensure record-keeping of lake dewatering by the lake owner / operator.</p>

¹⁸ Pollutants of concern include, at a minimum, trash and debris, including organic matter, TSS, and any pollutant for which there is a water quality-based effluent limitation in Part VI.E for the lake and/or receiving water.

<p>Landscape irrigation using potable water</p>	<p>Discharge allowed if runoff due to potable landscape irrigation is minimized through the implementation of an ordinance specifying water efficient landscaping standards, as well as an outreach and education program focusing on water conservation and landscape water use efficiency.</p>	<p>Implement BMPs to minimize runoff and prevent introduction of pollutants to the MS4 and receiving water. Implement water conservation programs to minimize discharge by using less water.</p>
<p>Landscape irrigation using reclaimed or recycled water</p>	<p>Discharge of reclaimed or recycled water runoff from landscape irrigation is allowed if the discharge is in compliance with the producer and distributor operations and management (O&M) plan, and all relevant portions thereof, including the Irrigation Management Plan.</p>	<p>Discharges must comply with applicable O&M Plans, and all relevant portions thereof, including the Irrigation Management Plan.</p>

<p>Dechlorinated/ debrominated swimming pool/spa discharges</p>	<p>Discharges allowed after implementation of specified BMPs.</p> <p>Pool or spa water containing copper-based algaecides is not allowed to be discharged to the MS4.</p> <p>Discharges of cleaning waste water and filter backwash allowed only if authorized by a separate NPDES permit.</p>	<p>Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water.</p> <p>Swimming pool water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L.</p> <p>Swimming pool water shall not contain any detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.¹⁹</p> <p>Swimming pool discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units.</p> <p>Swimming pool discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration.</p> <p>Ensure procedures for advanced notification by the pool owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more.</p> <p>For discharges of 100,000 gallons or more, immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.</p>
<p>Dewatering of decorative fountains</p>	<p>Discharges allowed after implementation of specified BMPs.</p> <p>Fountain water containing copper-based algaecides may not be discharged to the MS4.</p> <p>Fountain water containing dyes may not be discharged to the MS4.</p>	<p>Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water.</p> <p>Fountain water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L.</p> <p>Fountain discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units.</p> <p>Fountain discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration.</p> <p>Ensure procedures for advanced notification by the fountain owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more.</p> <p>For discharges of 100,000 gallons or more, immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.</p>
<p>Non-commercial car washing by residents or by non-</p>	<p>Discharges allowed after implementation of specified BMPs.</p>	<p>Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water.</p> <p>Minimize the amount of water used by employing water conservation practices such as turning off</p>

¹⁹ Applicable mineral water quality objectives for surface waters are contained in Chapter 3 of the Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties.

profit organizations		<p>nozzles or kinking the hose when not spraying a car, and using a low volume pressure washer. Encourage use of biodegradable, phosphate free detergents and non-toxic cleaning products. Where possible, wash cars on a permeable surface where wash water can percolate into the ground (e.g. gravel or grassy areas). Empty buckets of soapy or rinse water into the sanitary sewer system (e.g., sinks or toilets).</p>
Street/sidewalk wash water	Discharges allowed after implementation of specified BMPs.	<p>Sweeping should be used as an alternate BMP whenever possible and sweepings should be disposed of in the trash. BMPs shall be in accordance with Regional Water Board Resolution No. 98-08 that requires: 1) removal of trash, debris, and free standing oil/grease spills/leaks (use absorbent material if necessary) from the area before washing and 2) use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area. In areas of unsanitary conditions (e.g., areas where the congregation of transient populations can reasonably be expected to result in a significant threat to water quality), whenever practicable, Permittees shall collect and divert street and alley wash water from the Permittee's street and sidewalk cleaning public agency activities to the sanitary sewer.</p>

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations

1. **Technology Based Effluent Limitations:** Each Permittee shall reduce pollutants in storm water discharges from the MS4 to the maximum extent practicable (MEP).
2. **Water Quality-Based Effluent Limitations (WQBELs).** This Order establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the Permittees' MS4s.
 - a. Each Permittee shall comply with applicable WQBELs as set forth in Part VI.E of this Order, pursuant to applicable compliance schedules.

B. Land Discharge Specifications – Not Applicable

C. Reclamation Specifications – Not Applicable

V. RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations

1. Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.
2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible²⁰, shall not cause or contribute to a condition of nuisance.
3. The Permittees shall comply with Parts V.A.1 and V.A.2 through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications. The storm water management program and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of receiving water limitations persist, notwithstanding implementation of the storm water management program and its components and other requirements of this Order, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:
 - a. Upon a determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable Receiving Water Limitation, the Permittee shall promptly notify and thereafter submit an Integrated Monitoring Compliance Report (as described in the Program Reporting Requirements, Part XVIII.A.5 of the Monitoring and Reporting Program) to the Regional Water Board for approval. The Integrated Monitoring Compliance shall describe the BMPs that are currently being

²⁰ Pursuant to 40 CFR § 122.26(a)(3)(vi), a Permittee is only responsible for discharges of storm water and non-storm water from the MS4 for which it is an owner or operator.

implemented by the Permittee and additional BMPs, including modifications to current BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of receiving water limitations. The Integrated Monitoring Compliance Report shall include an implementation schedule. This Integrated Monitoring Compliance Report shall be incorporated in the annual Storm Water Report unless the Regional Water Board directs an earlier submittal. The Regional Water Board may require modifications to the Integrated Monitoring Compliance Report.

- b. The Permittee shall submit any modifications to the Integrated Monitoring Compliance Report required by the Regional Water Board within 30 days of notification.
 - c. Within 30 days following the Regional Water Board Executive Officer's approval of the Integrated Monitoring Compliance Report, the Permittee shall revise the storm water management program and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, an implementation schedule, and any additional monitoring required.
 - d. The Permittee shall implement the revised storm water management program and its components and monitoring program according to the approved implementation schedule.
4. So long as the Permittee has complied with the procedures set forth in Part V.A.3. above and is implementing the revised storm water management program and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Water Board to modify current BMPs or develop additional BMPs.

B. Ground Water Limitations – Not Applicable

VI. PROVISIONS

A. Standard Provisions

1. **Federal Standard Provisions.** Each Permittee shall comply with all Standard Provisions included in Attachment D of this Order, in accordance with 40 CFR sections 122.41 and 122.42.
2. **Legal Authority**
 - a. Each Permittee must establish and maintain adequate legal authority, within its respective jurisdiction, to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. This legal authority must, at a minimum, authorize or enable the Permittee to:

- i.** Control the contribution of pollutants to its MS4 from storm water discharges associated with industrial and construction activity and control the quality of storm water discharged from industrial and construction sites. This requirement applies both to industrial and construction sites with coverage under an NPDES permit, as well as to those sites that do not have coverage under an NPDES permit.
- ii.** Prohibit all non-storm water discharges through the MS4 to receiving waters not otherwise authorized or conditionally exempt pursuant to Part III.A;
- iii.** Prohibit and eliminate illicit discharges and illicit connections to the MS4;
- iv.** Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;
- v.** Require compliance with conditions in Permittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);
- vi.** Utilize enforcement mechanisms to require compliance with applicable ordinances, permits, contracts, or orders;
- vii.** Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees;
- viii.** Control of the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as the State of California Department of Transportation;
- ix.** Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with applicable municipal ordinances, permits, contracts and orders, and with the provisions of this Order, including the prohibition of non-storm water discharges into the MS4 and receiving waters. This means the Permittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from entities discharging into its MS4;
- x.** Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality standards/receiving water limitations;
- xi.** Require that structural BMPs are properly operated and maintained; and
- xii.** Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4.

b. Each Permittee must submit a statement certified by its chief legal counsel that the Permittee has the legal authority within its jurisdiction to implement and enforce each of the requirements contained in 40 CFR § 122.26(d)(2)(i)(A-F) and this Order. Each Permittee shall submit this certification annually as part of its Annual Report beginning with the first Annual Report required under this Order. These statements must include:

- i. Citation of applicable municipal ordinances or other appropriate legal authorities and their relationship to the requirements of 40 CFR § 122.26(d)(2)(i)(A)-(F) and of this Order; and
- ii. Identification of the local administrative and legal procedures available to mandate compliance with applicable municipal ordinances identified in subsection (i) above and therefore with the conditions of this Order, and a statement as to whether enforcement actions can be completed administratively or whether they must be commenced and completed in the judicial system.

3. Fiscal Resources

- a. Each Permittee shall conduct a fiscal analysis of the annual capital and operation and maintenance expenditures necessary to implement the requirements of this Order.
- b. Each Permittee shall also enumerate and describe in its Annual Report the source(s) of funds used in the past year, and proposed for the coming year, to meet necessary expenditures on the Permittee's storm water management program.

4. Responsibilities of the Permittees

- a. Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries. Permittees are not responsible for the implementation of the provisions applicable to other Permittees. Each Permittee shall:
 - i. Comply with the requirements of this Order and any modifications thereto.
 - ii. Coordinate among its internal departments and agencies, as necessary, to facilitate the implementation of the requirements of this Order applicable to such Permittees in an efficient and cost-effective manner.
 - iii. Participate in intra-agency coordination (e.g. Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and Recreation, and others) and inter-agency coordination (e.g. co-

Permittees, other NPDES permittees) necessary to successfully implement the provisions of this Order.

5. Public Review

- a. All documents submitted to the Regional Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552 (as amended)) and the Public Records Act (Cal. Government Code § 6250 et seq.).
- b. All documents submitted to the Regional Water Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

6. Regional Water Board Review

Any formal determination or approval made by the Regional Water Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Water Board. A Permittee(s) or a member of the public may request such review upon petition within 30 days of the effective date of the notification of such decision to the Permittee(s) and interested parties on file at the Regional Water Board.

7. Reopener and Modification

1. This Order may be modified, revoked, reissued, or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64. Causes for taking such actions include, but are not limited to:

Endangerment to human health or the environment resulting from the permitted activity, including information that the discharge(s) regulated by this Order may have the potential to cause or contribute to adverse impacts on water quality and/or beneficial uses;

Acquisition of newly-obtained information that would have justified the application of different conditions if known at the time of Order adoption;

To address changed conditions identified in required reports or other sources deemed significant by the Regional Water Board;

To incorporate provisions as a result of future amendments to the Basin Plan, such as a new or revised water quality objective or the adoption or reconsideration of a TMDL, including the program of implementation. Within 18 months of the effective date of a revised TMDL or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this Order, the Regional Water Board may modify this Order consistent with the assumptions and requirements of the revised WLA(s), including the program of implementation;

To incorporate provisions as a result of new or amended statewide water quality control plans or policies adopted by the State Water Board, or in consideration of any State Water Board action regarding the precedential language of State Water Board Order WQ 99-05;

To incorporate provisions as a result of the promulgation of new or amended federal or state laws or regulations, USEPA guidance concerning regulated activities, or judicial decisions that becomes effective after adoption of this Order.

To incorporate effluent limitations for toxic constituents determined to be present in significant amount in the discharge through a more comprehensive monitoring program included as part of this Order and based on the results of the reasonable potential analysis;

In accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach or to include new Minimum Levels (MLs); and/or

To include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges. Such modifications shall be based on the Regional Water Board's evaluation of whether Watershed Management Programs in Part VI.C. have resulted in attainment of interim WQBELs for storm water and review of relevant research, including but not limited to data and information provided by Permittees and other stakeholders, on storm water quality and the efficacy and reliability of storm water control technologies. Provisions or modifications to WQBELs in Part VI.E. shall only be included in this Order where there is evidence that storm water control technologies can reliably achieve final WQBELs.

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

Violation of any term or condition contained in this Order;

Obtaining this Order by misrepresentation, or failure to disclose all relevant facts;
or

A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. The filing of a request by a Permittee for a modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

4. This Order may be modified to make corrections or allowances for changes in the permitted activity, following the procedures at 40 CFR section 122.63, if processed as a minor modification. Minor modifications may only:
 - Correct typographical errors; or
 - Require more frequent monitoring or reporting by a Permittee.
8. Any discharge of waste to any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of this Order.
9. A copy of this Order shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees responsible for implementation of the provisions of this Order and members of the public.
10. The discharge of any product registered under the Federal Insecticide, Fungicide, and Rodenticide Act to any waste stream that may ultimately be released to waters of the United States, is prohibited, unless specifically authorized elsewhere in this Order or another NPDES permit. This requirement is not applicable to products used for lawn and agricultural purposes.
11. Oil or oily material, chemicals, refuse, or other pollutionable materials shall not be stored or deposited in areas where they may be picked up by rainfall and carried off of the property and/or discharged to surface waters. Any such spill of such materials shall be contained and removed immediately.
12. If there is any storage of hazardous or toxic materials or hydrocarbons at a facility owned and/or operated by a Permittee and if the facility is not manned at all times, a 24-hour emergency response telephone number shall be prominently posted where it can easily be read from the outside.
13. **Enforcement**
 - a. Violation of any of the provisions of this Order may subject the violator to any of the penalties described herein or in Attachment D of this Order, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalty may be applied for each kind of violation.
5. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges through the MS4 to receiving waters, may subject a Permittee to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject a Permittee to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.
6. The California Water Code provides that any person who violates a waste discharge requirement or a provision of the California Water Code is subject to civil penalties of up to \$5,000 per day, \$10,000 per day, or \$25,000 per day of violation, or when the

violation involves the discharge of pollutants, is subject to civil penalties of up to \$10 per gallon per day or \$25 per gallon per day of violation; or some combination thereof, depending on the violation, or upon the combination of violations.

7. California Water Code section 13385(h)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars (\$3,000) for each serious violation. Pursuant to California Water Code section 13385(h)(2), a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of 40 CFR section 123.45 specifies the Group I and II pollutants. Pursuant to California Water Code section 13385.1(a)(1), a "serious violation" is also defined as "a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations."
8. California Water Code section 13385(i) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars (\$3,000) for each violation whenever a person violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
9. Pursuant to California Water Code section 13385.1(d), for the purposes of section 13385.1 and subdivisions (h), (i), and (j) of section 13385, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for these purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.
10. Unlike subdivision (c) of California Water Code section 13385, where violations of effluent limitations may be assessed administrative civil liability on a per day basis, the mandatory minimum penalties provisions identified above require the Regional Water Board to assess mandatory minimum penalties for "each violation" of an effluent limitation. Some water quality-based effluent limitations in Attachments L through R of this Order (e.g., trash, as described immediately below) are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one violation of each interim or final effluent limitation per year.

11. Trash TMDLs.

Consistent with the 2009 amendments to Order No. 01-182 to incorporate the Los Angeles River Trash TMDL, the water quality-based effluent limitations in Attachments L through R of this Order for trash are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one

violation of each interim or final effluent limitation per year. Trash is considered a Group I pollutant, as specified in Appendix A to 40 CFR section 123.45. Therefore, each annual violation of a trash effluent limitation in Attachments L through R of this Order by forty percent or more would be considered a "serious violation" under California Water Code section 13385(h). With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation, in accordance with the State Water Board's Enforcement Policy. Violations of the effluent limitations in Attachments L through R of this Order would not constitute "chronic" violations that would give rise to mandatory liability under California Water Code section 13385(i) because four or more violations of the effluent limitations subject to a mandatory penalty cannot occur in a period of six consecutive months.

For the purposes of enforcement under California Water Code section 13385, subdivisions (a), (b), and (c), not every storm event may result in trash discharges. In trash TMDLs adopted by the Regional Water Board, the Regional Water Board states that improperly deposited trash is mobilized during storm events of greater than 0.25 inches of precipitation. Therefore, violations of the effluent limitations are limited to the days of a storm event of greater than 0.25 inches. Once a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inches during the same storm year constitutes an additional "day in which the violation [of the effluent limitation] occurs".

14. This Order does not exempt any Permittee from compliance with any other laws, regulations, or ordinances that may be applicable.
15. The provisions of this Order are severable. If any provisions of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected.

B. Monitoring and Reporting Program (MRP) Requirements

Dischargers shall comply with the MRP and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E.

C. Watershed Management Programs

1. General

- a.** The purpose of this Part VI.C is to allow Permittees the flexibility to develop Watershed Management Programs to implement the requirements of this Order on a watershed scale through customized strategies, control measures, and BMPs.
- b.** Participation in a Watershed Management Program is voluntary and allows a Permittee to address the highest watershed priorities, including complying with the requirements of Part V.A. (Receiving Water Limitations), Part VI.E (Total Maximum Daily Load Provisions) and Attachments L through R, by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures).
- c.** Customized strategies, control measures, and BMPs shall be implemented on a watershed basis, where applicable, through each Permittee's storm water management program and/or collectively by all participating Permittees through a Watershed Management Program.
- d.** The Watershed Management Programs shall ensure that discharges from the Permittee's MS4: (i) achieve applicable water quality-based effluent limitations in Part VI.E and Attachments L through R pursuant to the corresponding compliance schedules, (ii) do not cause or contribute to exceedances of receiving water limitations in Parts V.A and VI.E and Attachments L through R, and (iii) do not include non-storm water discharges that are effectively prohibited pursuant to Part III.A. The programs shall also ensure that controls are implemented to reduce the discharge of pollutants to the maximum extent practicable (MEP) pursuant to Part IV.A.1.
- e.** Watershed Management Programs shall be developed either collaboratively or individually using the Regional Water Board's Watershed Management Areas (WMAs). Where appropriate, WMAs may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water.
- f.** Each Watershed Management Program shall be consistent with Part VI.C.5-C.8 and shall:
 - i.** Prioritize water quality issues resulting from storm water and non-storm water discharges from the MS4 to receiving waters within each WMA,
 - ii.** Identify and implement strategies, control measures, and BMPs to achieve the outcomes specified in Part VI.C.1.d,
 - iii.** Execute an integrated monitoring program and assessment program pursuant to Attachment E – MRP, Part IV to determine progress towards achieving applicable limitations and/or action levels in Attachment G, and

- iv. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program are achieved in the required timeframes.
- v. Provide appropriate opportunity for meaningful stakeholder input, including but not limited to, a permit-wide watershed management program technical advisory committee (TAC) that will advise and participate in the development of the Watershed Management Programs and enhanced Watershed Management Programs from month 6 through the date of program approval. The composition of the TAC may include at least one Permittee representative from each Watershed Management Area for which a Watershed Management Program will be developed, and must include a minimum of one public representative from a non-governmental organization with public membership, and staff from the Regional Water Board and USEPA Region IX.
- g. Permittees may elect to develop an enhanced Watershed Management Program (EWMP). An EWMP is one that comprehensively evaluates opportunities, within the participating Permittees' collective jurisdictional area in a Watershed Management Area, for collaboration among Permittees and other partners on multi-benefit regional projects that, wherever feasible, retain (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event for the drainage areas tributary to the projects, while also achieving other benefits including flood control and water supply, among others. In drainage areas within the EWMP area where retention of the 85th percentile, 24-hour storm event is not feasible, the EWMP shall include a Reasonable Assurance Analysis to demonstrate that applicable water quality based effluent limitations and receiving water limitations shall be achieved through implementation of other watershed control measures. An EWMP shall:
 - i. Be consistent with the provisions in Part VI.C.1.a.-f and VI.C.5-C.8;
 - ii. Incorporate applicable State agency input on priority setting and other key implementation issues;
 - iii. Provide for meeting water quality standards and other CWA obligations by utilizing provisions in the CWA and its implementing regulations, policies and guidance;
 - iv. Include multi-benefit regional projects to ensure that MS4 discharges achieve compliance with all final WQBELs set forth in Part VI.E. and do not cause or contribute to exceedances of receiving water limitations in Part V.A. by retaining through infiltration or capture and reuse the storm water volume from the 85th percentile, 24-hour storm for the drainage areas tributary to the multi-benefit regional projects.;

- v. In drainage areas where retention of the storm water volume from the 85th percentile, 24-hour event is not technically feasible, include other watershed control measures to ensure that MS4 discharges achieve compliance with all interim and final WQBELs set forth in Part VI.E. with compliance deadlines occurring after approval of a EWMP and to ensure that MS4 discharges do not cause or contribute to exceedances of receiving water limitations in Part V.A.;
- vi. Maximize the effectiveness of funds through analysis of alternatives and the selection and sequencing of actions needed to address human health and water quality related challenges and non-compliance;
- vii. Incorporate effective innovative technologies, approaches and practices, including green infrastructure;
- viii. Ensure that existing requirements to comply with technology-based effluent limitations and core requirements (e.g., including elimination of non-storm water discharges of pollutants through the MS4, and controls to reduce the discharge of pollutants in storm water to the maximum extent practicable) are not delayed;
- ix. Ensure that a financial strategy is in place.

2. Compliance with Receiving Water Limitations Not Otherwise Addressed by a TMDL through a WMP or EWMP

- a. For receiving water limitations in Part V.A. associated with water body-pollutant combinations not addressed through a TMDL, but which a Permittee elects to address through a Watershed Management Program or EWMP as set forth in this Part VI.C., a Permittee shall comply as follows:
 - i. **For pollutants that are in the same class²¹ as those addressed in a TMDL for the watershed and for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:**

- (1) Permittees shall demonstrate that the Watershed Control Measures to achieve the applicable TMDL provisions identified pursuant to Part VI.C.5.b.iv.(3) will also adequately address contributions of the pollutant(s) within the same class from MS4 discharges to receiving waters, consistent with the assumptions and requirements of the corresponding TMDL provisions, including interim and final requirements and deadlines for their achievement, such that the

²¹ Pollutants are considered in a similar class if they have similar fate and transport mechanisms, can be addressed via the same types of control measures, and within the same timeline already contemplated as part of the Watershed Management Program for the TMDL.

MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(2) Permittees shall include the water body-pollutant combination(s) in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).

(3) Permittees shall identify milestones and dates for their achievement consistent with those in the corresponding TMDL.

ii. For pollutants that are not in the same class as those addressed in a TMDL for the watershed, but for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.

(2) Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(3) Permittees shall include the water body-pollutant in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).

(4) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

(5) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:

(a) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.

(b) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible and where the Regional

Water Board determines that MS4 discharges cause or contribute to the water quality impairment, participating Permittees may initiate development of a stakeholder-proposed TMDL upon approval of the Watershed Management Program or EWMP. For MS4 discharges from these drainage areas to the receiving waters, any extension of this compliance mechanism beyond the term of this Order shall be consistent with the implementation schedule in a TMDL for the waterbody pollutant combination(s) adopted by the Regional Water Board.

iii. For pollutants for which there are exceedances of receiving water limitations in Part V.A., but for which the water body is not identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

- (1) Upon an exceedance of a receiving water limitation, based on data collected pursuant to the MRP and approved IMPs and CIMPs, Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.
- (2) If MS4 discharges are identified as a source of the pollutant(s) that has caused or contributed to, or has the potential to cause or contribute to, the exceedance(s) of receiving water limitations in Part V.A., Permittees shall address contributions of the pollutant(s) from MS4 discharges through modifications to the WMP or EWMP pursuant to Part VI.C.8.a.ii.
 - (a) In a modified WMP or EWMP, Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.
 - (b) Permittees shall modify the Reasonable Assurance Analysis pursuant to Part VI.C.5.b.iv.(5) to address the pollutant(s).
 - (c) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

- (d) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:
- (i) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.
 - (ii) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible, for newly identified exceedances of receiving water limitations, a Permittee may request that the Regional Water Board approve a modification to its WMP or EWMP to include these additional water body-pollutant combinations.
- b. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or EWMP shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. of this Order for the specific water body-pollutant combinations addressed by an approved Watershed Management Program or EWMP.
- c. If a Permittee fails to meet any requirement or date for its achievement in an approved Watershed Management Program or EWMP, the Permittee shall be subject to the provisions of Part V.A. for the waterbody-pollutant combination(s) that were to be addressed by the requirement.
- d. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. not otherwise addressed by a TMDL, if all the following requirements are met:
- i. Provides timely notice of its intent to develop a WMP or EWMP,
 - ii. Meets all interim and final deadlines for development of a WMP or EWMP,
 - iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of

pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and

- iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

3. Compliance with Receiving Water Limitations Addressed by a TMDL through a WMP or EWMP

- a. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or EWMP shall constitute a Permittee's compliance with provisions pertaining to applicable interim water quality based effluent limitations and interim receiving water limitations in Part VI.E. and Attachments L-R for the pollutant(s) addressed by the approved Watershed Management Program or EWMP.
- b. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A., if all the following requirements are met:
 - i. Provides timely notice of its intent to develop a WMP or EWMP,
 - ii. Meets all interim and final deadlines for development of a WMP or EWMP,
 - iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and
 - iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.
- c. Subdivision b. does not apply to receiving water limitations corresponding to final compliance deadlines pursuant to TMDL provisions in Part VI.E. that have passed or will occur prior to approval of a WMP or EWMP.

4. Process

- a. Timelines for Implementation
 - i. Implementation of the following requirements shall occur per the schedule specified in Table 9 below:

Table 9. Watershed Management Program Implementation Requirements

Part	Provision	Due Date
VI.C.4.b	Notify Regional Water Board of intent to develop Watershed Management Program or enhanced WMP and request submittal date for draft program plan	6 months after Order effective date
VI.C.4.c	For Permittee(s) that elect not to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board	1 year after Order effective date
VI.C.4.c	For Permittee(s) that elect to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board	18 months after Order effective date
VI.C.4.c.iv	For Permittees that elect to collaborate on an enhanced WMP that meets the requirements of Part VI.C.4.c.iv, submit draft plan to Regional Water Board	18 months after Order effective date, provide final work plan for development of enhanced WMP 30 months after Order effective date, submit draft plan
VI.C.4.c	Comments provided to Permittees by Regional Water Board	4 months after submittal of draft plan
VI.C.4.c	Submit final plan to Regional Water Board	3 months after receipt of Regional Water Board comments on draft plan
VI.C.4.c	Approval or denial of final plan by Regional Water Board or by the Executive Officer on behalf of the Regional Water Board	3 months after submittal of final plan
VI.C.6	Begin implementation of Watershed Management Program or EWMP	Upon approval of final plan
VI.C.8	Comprehensive evaluation of Watershed Management	Every two years from date of

Program or EWMP and submittal of modifications to plan	approval
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- b.** Permittees that elect to develop a Watershed Management Program or EWMP must notify the Regional Water Board no later than six months after the effective date of this Order.
- i.** Such notification shall specify if the Permittee(s) are requesting a 12-month or 18-month submittal date for the draft Watershed Management Program, per Part VI.C.4.c.i – ii, or if the Permittees are requesting a 18/30-month submittal date for the draft EWMP per Part VI.C.4.c.iv.
- ii.** As part of their notice of intent to develop a WMP or EWMP, Permittees shall identify all applicable interim and final trash WQBELs and all other final WQBELs and receiving water limitations pursuant to Part VI.E. and the applicable attachment(s) with compliance deadlines occurring prior to approval of a WMP or EWMP. Permittees shall identify watershed control measures, where possible from existing TMDL implementation plans, that will be implemented by participating Permittees concurrently with the development of a Watershed Management Program or EWMP to ensure that MS4 discharges achieve compliance with applicable interim and final trash WQBELs and all other final WQBELs and receiving water limitations set forth in Part VI.E. and the applicable attachment(s) by the applicable compliance deadlines occurring prior to approval of a WMP or EWMP.
- iii.** As part of their notification, Permittees electing to develop an EWMP shall submit all of the following in addition to the requirements of Part VI.C.4.b.i.-ii.:
- (1) Plan concept and geographical scope,
 - (2) Cost estimate for plan development,
 - (3) Executed MOU/agreement among participating Permittees to fund plan development, or final draft MOU among participating Permittees along with a signed letter of intent from each participating City Manager or head of agency. If a final draft MOU is submitted, the MOU shall be fully executed by all participating Permittees within 12 months of the effective date of this Order.
 - (4) Interim milestones for plan development and deadlines for their achievement,
 - (5) Identification of, and commitment to fully implement, one structural BMP or a suite of BMPs at a scale that provides meaningful water quality improvement within each watershed covered by the plan within 30 months of the effective date of this Order in addition to

watershed control measures to be implemented pursuant to b.ii. above. The structural BMP or suite of BMPs shall be subject to approval by the Regional Water Board Executive Officer, and

- (6) Demonstration that the requirements in Parts VI.C.4.c.iv.(1) and (2) have been met.
- c. Permittees that elect to develop a Watershed Management Program shall submit a draft plan to the Regional Water Board as follows:
- i. For Permittees that elect to collaborate on the development of a Watershed Management Program, Permittees shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area covered by the WMP:
 - (1) Demonstrate that there are LID ordinances in place and/or commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and
 - (2) Demonstrate that there are green streets policies in place and/or commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.
 - (3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.i(1) and (2) have been met in greater than 50% of the watershed area.
 - ii. For a Permittee that elects to develop an individual Watershed Management Program, the Permittee shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met:
 - (1) Demonstrate that there is a LID ordinance in place for the Permittee's jurisdiction and/or commence development of a Low Impact Development (LID) ordinance for the Permittee's jurisdiction meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and
 - (2) Demonstrate that there is a green streets policy in place for the Permittee's jurisdiction and/or commence development of a policy

that specifies the use of green street strategies for transportation corridors within the Permittee's jurisdiction within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.

- (3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.ii.(1) and (2) have been met.
- iii. For Permittees that elect not to implement the conditions under Part VI.C.4.c.i. or Part VI.C.4.c.ii., Permittees shall submit the draft Watershed Management Program no later than 12 months after the effective date of this Order.
 - iv. For Permittees that elect to collaborate on the development of an EWMP, Permittees shall submit the work plan for development of the EWMP no later than 18 months after the effective date of this Order, and shall submit the draft program no later than 30 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area in the watershed:
 - (1) Demonstrate that there are LID ordinances in place and/or commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and
 - (2) Demonstrate that there are green streets policies in place and/or commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.
 - (3) Demonstrate in the notification of the intent to develop an EWMP that Parts VI.C.4.c.iv.(1) and (2) have been met in greater than 50% of the watershed area.
- d. Until the Watershed Management Program or EWMP is approved by the Regional Water Board or by the Executive Officer on behalf of the Regional Water Board, Permittees that elect to develop a Watershed Management Program or EWMP shall:
 - i. Continue to implement watershed control measures in their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv),

- ii. Continue to implement watershed control measures to eliminate non-storm water discharges through the MS4 that are a source of pollutants to receiving waters consistent with CWA section 402(p)(3)(B)(ii), and
 - iii. Implement watershed control measures, where possible from existing TMDL implementation plans, to ensure that MS4 discharges achieve compliance with interim and final trash WQBELs and all other final WQBELs and receiving water limitations pursuant to Part VI.E. and set forth in Attachments L through R by the applicable compliance deadlines occurring prior to approval of a WMP or EWMP.
- e. Permittees that do not elect to develop a Watershed Management Program or EWMP, or that do not have an approved WMP or EWMP within 28 or 40 months, respectively, of the effective date of this Order, shall be subject to the baseline requirements in Part VI.D and shall demonstrate compliance with receiving water limitations pursuant to Part V.A. and with applicable interim water quality-based effluent limitations in Part VI.E pursuant to subparts VI.E.2.d.i.(1)-(3).
- f. Permittees subject to the Middle Santa Ana River Watershed Bacteria Indicator TMDL shall submit a Comprehensive Bacteria Reduction Plan (CBRP) for dry weather to the Regional Water Board Executive Officer no later than nine months after the effective date of this Order. The CBRP shall describe, in detail, the specific actions that have been taken or will be taken to achieve compliance with the dry weather water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Watershed Bacteria Indicator TMDL by December 31, 2015. The CBRP shall also establish a schedule for developing a CBRP to comply with the water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Bacteria TMDL during wet weather by December 31, 2025. The CBRP may be developed in lieu of the Watershed Management Program for MS4 discharges of bacteria within the Middle Santa Ana River Watershed.

5. Program Development

a. Identification of Water Quality Priorities

Permittees shall identify the water quality priorities within each WMA that will be addressed by the Watershed Management Program. At a minimum, these priorities shall include achieving applicable water quality-based effluent limitations and/or receiving water limitations established pursuant to TMDLs, as set forth in Part VI.E and Attachments L through R of this Order.

- i. Water Quality Characterization. Each plan shall include an evaluation of existing water quality conditions, including characterization of storm water and non-storm water discharges from the MS4 and receiving water quality,

to support identification and prioritization/sequencing of management actions.

- ii. **Water Body-Pollutant Classification.** On the basis of the evaluation of existing water quality conditions, water body-pollutant combinations shall be classified into one of the following three categories:
 - (1) **Category 1 (Highest Priority):** Water body-pollutant combinations for which water quality-based effluent limitations and/or receiving water limitations are established in Part VI.E and Attachments L through R of this Order.
 - (2) **Category 2 (High Priority):** Pollutants for which data indicate water quality impairment in the receiving water according to the State's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (State Listing Policy) and for which MS4 discharges may be causing or contributing to the impairment.
 - (3) **Category 3 (Medium Priority):** Pollutants for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance.
- iii. **Source Assessment.** Utilizing existing information, potential sources within the watershed for the water body-pollutant combinations in Categories 1 - 3 shall be identified.
 - (1) Permittees shall identify known and suspected storm water and non-storm water pollutant sources in discharges to the MS4 and from the MS4 to receiving waters and any other stressors related to MS4 discharges causing or contributing to the water quality priorities. The identification of known and suspected sources of the highest water quality priorities shall consider the following:
 - (a) Review of available data, including but not limited to:
 - (i) Findings from the Permittees' Illicit Connections and Illicit Discharge Elimination Programs;
 - (ii) Findings from the Permittees' Industrial/Commercial Facilities Programs;
 - (iii) Findings from the Permittees' Development Construction Programs;

- (iv) Findings from the Permittees' Public Agency Activities Programs;
 - (v) TMDL source investigations;
 - (vi) Watershed model results;
 - (vii) Findings from the Permittees' monitoring programs, including but not limited to TMDL compliance monitoring and receiving water monitoring; and
 - (viii) Any other pertinent data, information, or studies related to pollutant sources and conditions that contribute to the highest water quality priorities.
- (b) Locations of the Permittees' MS4s, including, at a minimum, all MS4 major outfalls and major structural controls for storm water and non-storm water that discharge to receiving waters.
- (c) Other known and suspected sources of pollutants in non-storm water or storm water discharges from the MS4 to receiving waters within the WMA.
- iv. Prioritization.** Based on the findings of the source assessment, the issues within each watershed shall be prioritized and sequenced. Watershed priorities shall include at a minimum:
- (1) TMDLs
 - (a) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines within the permit term, or TMDL compliance deadlines that have already passed and limitations have not been achieved.
 - (b) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines between September 6, 2012 and October 25, 2017.
 - (2) Other Receiving Water Considerations
 - (a) Controlling pollutants for which data indicate impairment or exceedances of receiving water limitations in the receiving water and the findings from the source assessment implicates discharges from the MS4 shall be considered the second highest priority.

b. Selection of Watershed Control Measures

- i.** Permittees shall identify strategies, control measures, and BMPs to implement through their individual storm water management programs, and collectively on a watershed scale, with the goal of creating an efficient program to focus individual and collective resources on watershed priorities.
- ii.** The objectives of the Watershed Control Measures shall include:

 - (1) Prevent or eliminate non-storm water discharges to the MS4 that are a source of pollutants from the MS4 to receiving waters.
 - (2) Implement pollutant controls necessary to achieve all applicable interim and final water quality-based effluent limitations and/or receiving water limitations pursuant to corresponding compliance schedules.
 - (3) Ensure that discharges from the MS4 do not cause or contribute to exceedances of receiving water limitations.
- iii.** Watershed Control Measures may include:

 - (1) Structural and/or non-structural controls and operation and maintenance procedures that are designed to achieve applicable water quality-based effluent limitations, receiving water limitations in Part VI.E and/or Attachments L through R;
 - (2) Retrofitting areas of existing development known or suspected to contribute to the highest water quality priorities with regional or sub-regional controls or management measures; and
 - (3) Stream and/or habitat rehabilitation or restoration projects where stream and/or habitat rehabilitation or restoration are necessary for, or will contribute to demonstrable improvements in the physical, chemical, and biological receiving water conditions and restoration and/or protection of water quality standards in receiving waters.
- iv.** The following provisions of this Order shall be incorporated as part of the Watershed Management Program:

 - (1) Minimum Control Measures.

 - (a) Permittees shall assess the minimum control measures (MCMs) as defined in Part VI.D.4 to Part VI.D.10 of this Order to identify opportunities for focusing resources on the high priority issues in each watershed. For each of the following minimum control measures, Permittees shall identify potential modifications that will address watershed priorities:

 - (i) Development Construction Program

- (ii) Industrial/Commercial Facilities Program
 - (iii) Illicit Connection and Illicit Discharges Detection and Elimination Program
 - (iv) Public Agency Activities Program
 - (v) Public Information and Participation Program
- (b) At a minimum, the Watershed Management Program shall include management programs consistent with 40 CFR section 122.26(d)(2)(iv)(A)-(D).
- (c) If the Permittee(s) elects to eliminate a control measure identified in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 because that specific control measure is not applicable to the Permittee(s), the Permittee(s) shall provide a justification for its elimination. The Planning and Land Development Program is not eligible for elimination.
- (d) Such customized actions, once approved as part of the Watershed Management Program, shall replace in part or in whole the requirements in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 for participating Permittees.
- (2) Non-Storm Water Discharge Measures. Where Permittees identify non-storm water discharges from the MS4 as a source of pollutants that cause or contribute to exceedance of receiving water limitations, the Watershed Control Measures shall include strategies, control measures, and/or BMPs that must be implemented to effectively eliminate the source of pollutants consistent with Parts III.A and VI.D.10. These may include measures to prohibit the non-storm water discharge to the MS4, additional BMPs to reduce pollutants in the non-storm water discharge or conveyed by the non-storm water discharge, diversion to a sanitary sewer for treatment, or strategies to require the non-storm water discharge to be separately regulated under a general NPDES permit.
- (3) TMDL Control Measures. Permittees shall compile control measures that have been identified in TMDLs and corresponding implementation plans. Permittees shall identify those control measures to be modified, if any, to most effectively address TMDL requirements within the watershed. If not sufficiently identified in previous documents, or if implementation plans have not yet been developed (e.g., USEPA established TMDLs), the Permittees shall evaluate and identify control measures to achieve water quality-based effluent limitations and/or receiving water limitations established in this Order pursuant to these TMDLs.

- (a) TMDL control measures shall include where necessary control measures to address both storm water and non-storm water discharges from the MS4.
 - (b) TMDL control measures may include baseline or customized activities covered under the general MCM categories in Part VI.D as well as BMPs and other control measures covered under the non-storm water discharge provisions of Part III.A of this Order.
 - (c) The WMP shall include, at a minimum, those actions that will be implemented during the permit term to achieve interim and/or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines within the permit term.
- (4) Each plan shall include the following components:
- (a) Identification of specific structural controls and non-structural best management practices, including operational source control and pollution prevention, and any other actions or programs to achieve all water quality-based effluent limitations and receiving water limitations contained in this Part VI.E and Attachments L through R to which the Permittee(s) is subject;
 - (b) For each structural control and non-structural best management practice, the number, type, and location(s) and/or frequency of implementation;
 - (c) For any pollution prevention measures, the nature, scope, and timing of implementation;
 - (d) For each structural control and non-structural best management practice, interim milestones and dates for achievement to ensure that TMDL compliance deadlines will be met; and
 - (e) The plan shall clearly identify the responsibilities of each participating Permittee for implementation of watershed control measures.
- (5) Permittees shall conduct a Reasonable Assurance Analysis for each water body-pollutant combination addressed by the Watershed Management Program. A Reasonable Assurance Analysis (RAA) shall be quantitative and performed using a peer-reviewed model in the public domain. Models to be considered for the RAA, without exclusion, are the Watershed Management Modeling System (WMMS), Hydrologic Simulation Program-FORTRAN (HSPF), and the Structural BMP Prioritization and Analysis Tool (SBPAT). The RAA shall commence with assembly of all available, relevant subwatershed data collected within the last 10 years, including land use and pollutant loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis. Data on

performance of watershed control measures needed as model input shall be drawn only from peer-reviewed sources. These data shall be statistically analyzed to determine the best estimate of performance and the confidence limits on that estimate for the pollutants to be evaluated. The objective of the RAA shall be to demonstrate the ability of Watershed Management Programs and EWMPs to ensure that Permittees' MS4 discharges achieve applicable water quality based effluent limitations and do not cause or contribute to exceedances of receiving water limitations.

- (a) Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable water quality-based effluent limitations and/or receiving water limitations in Attachments L through R with compliance deadlines during the permit term.
 - (b) Where the TMDL Provisions in Part VI.E and Attachments L through R do not include interim or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term, Permittees shall identify interim milestones and dates for their achievement to ensure adequate progress toward achieving interim and final water quality-based effluent limitations and/or receiving water limitations with deadlines beyond the permit term.
 - (c) For water body-pollutant combinations not addressed by TMDLs, Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable receiving water limitations as soon as possible.
- (6) Permittees shall provide documentation that they have the necessary legal authority to implement the Watershed Control Measures identified in the plan, or that other legal authority exists to compel implementation of the Watershed Control Measures.

c. Compliance Schedules

Permittees shall incorporate compliance schedules in Attachments L through R into the plan and, where necessary develop interim milestones and dates for their achievement. Compliance schedules and interim milestones and dates for their achievement shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable water quality-based effluent limitations and/or receiving water limitations.

- i. Schedules must be adequate for measuring progress on a watershed scale once every two years.

- ii. Schedules must be developed for both the strategies, control measures and BMPs implemented by each Permittee within its jurisdiction and for those that will be implemented by multiple Permittees on a watershed scale.
- iii. Schedules shall incorporate the following:
 - (1) Compliance deadlines occurring within the permit term for all applicable interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R of this Order,
 - (2) Interim milestones and dates for their achievement within the permit term for any applicable final water quality-based effluent limitation and/or receiving water limitation in Part VI.E and Attachments L through R, where deadlines within the permit term are not otherwise specified.
 - (3) For watershed priorities related to addressing exceedances of receiving water limitations in Part V.A and not otherwise addressed by Part VI.E:
 - (a) Milestones based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges,
 - (a) A schedule with dates for achieving the milestones, and
 - (b) A final date for achieving the receiving water limitations as soon as possible.
 - (c) The milestones and implementation schedule in (a)-(c) fulfill the requirements in Part V.A.3.a to prepare an Integrated Monitoring Compliance Report.

6. Watershed Management Program Implementation

Each Permittee shall begin implementing the Watershed Management Program or EWMP immediately upon approval of the plan by the Regional Water Board or the Executive Officer on behalf of the Regional Water Board.

- a. Permittees may request an extension of deadlines for achievement of interim milestones established pursuant to Part VI.C.4.c.iii.(3) only. Permittees shall provide requests in writing at least 90 days prior to the deadline and shall include in the request the justification for the extension. Extensions shall be subject to approval by the Regional Water Board Executive Officer.

7. Integrated Watershed Monitoring and Assessment

Permittees in each WMA shall develop an integrated monitoring program as set forth in Part IV of the MRP (Attachment E) or implement a customized monitoring

program with the primary objective of allowing for the customization of the outfall monitoring program (Parts VIII and IX) in conjunction with an approved Watershed Management Program or EWMP, as defined below. Each monitoring program shall assess progress toward achieving the water quality-based effluent limitations and/or receiving water limitations per the compliance schedules, and progress toward addressing the water quality priorities for each WMA. The customized monitoring program shall be submitted as part of the Watershed Management Program, or where Permittees elect to develop an EWMP, shall be submitted within 18 months of the effective date of this Order. If pursuing a customized monitoring program, the Permittee(s) shall provide sufficient justification for each element of the program that differs from the monitoring program requirements as set forth in Attachment E. Monitoring programs shall be subject to approval by the Executive Officer following a public comment period. The customized monitoring program shall be designed to address the Primary Objectives detailed in Attachment E, Part II.A and shall include the following program elements:

- Receiving Water Monitoring
- Storm Water Outfall Monitoring
- Non-Storm Water Outfall Monitoring
- New Development/Re-Development Effectiveness Tracking
- Regional Studies

8. Adaptive Management Process

a. Watershed Management Program Adaptive Management Process

- i. Permittees in each WMA shall implement an adaptive management process, every two years from the date of program approval, adapting the Watershed Management Program or EWMP to become more effective, based on, but not limited to a consideration of the following:
 - (1) Progress toward achieving interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R, according to established compliance schedules;
 - (2) Progress toward achieving improved water quality in MS4 discharges and achieving receiving water limitations through implementation of the watershed control measures based on an evaluation of outfall-based monitoring data and receiving water monitoring data;
 - (3) Achievement of interim milestones;

- (4) Re-evaluation of the water quality priorities identified for the WMA based on more recent water quality data for discharges from the MS4 and the receiving water(s) and a reassessment of sources of pollutants in MS4 discharges;
 - (5) Availability of new information and data from sources other than the Permittees' monitoring program(s) within the WMA that informs the effectiveness of the actions implemented by the Permittees;
 - (6) Regional Water Board recommendations; and
 - (7) Recommendations for modifications to the Watershed Management Program solicited through a public participation process.
- ii. Based on the results of the adaptive management process, Permittees shall report any modifications, including where appropriate new compliance deadlines and interim milestones, with the exception of those compliance deadlines established in a TMDL, necessary to improve the effectiveness of the Watershed Management Program or EWMP in the Annual Report, as required pursuant to Part XVIII.A.6 of the MRP (Attachment E), and as part of the Report of Waste Discharge (ROWD) required pursuant to Part II.B of Attachment D – Standard Provisions.
- (1) The adaptive management process fulfills the requirements in Part V.A.4 to address continuing exceedances of receiving water limitations.
- iii. Permittees shall implement any modifications to the Watershed Management Program or EWMP upon approval by the Regional Water Board Executive Officer or within 60 days of submittal if the Regional Water Board Executive Officer expresses no objections.

D. Storm Water Management Program Minimum Control Measures

1. General Requirements

- a. Each Permittee shall implement the requirements in Parts VI.D.4 through VI.D.10 below, or may in lieu of the requirements in Parts VI.D.4 through VI.D.10 implement customized actions within each of these general categories of control measures as set forth in an approved Watershed Management Program per Part VI.C. Implementation shall be consistent with the requirements of 40 CFR § 122.26(d)(2)(iv).
- b. Timelines for Implementation
 - i. Unless otherwise noted in Part VI.D, each Permittee that does not elect to develop a Watershed Management Program or EWMP per Part VI.C shall implement the requirements contained in Part VI.D within 6 months after the

effective date of this Order. In the interim, a Permittee shall continue to implement its existing storm water management program, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv).

- ii. Permittees that elect to develop a Watershed Management Program or EWMP shall continue to implement their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv) until the Watershed Management Program or EWMP is approved by the Regional Water Board Executive Officer.

2. Progressive Enforcement and Interagency Coordination

- a. Each Permittee shall develop and implement a Progressive Enforcement Policy to ensure that (1) regulated Industrial/Commercial facilities, (2) construction sites, (3) development and redevelopment sites with post-construction controls, and (4) illicit discharges are each brought into compliance with all storm water and non-storm water requirements within a reasonable time period as specified below.

- i. Follow-up Inspections

In the event that a Permittee determines, based on an inspection or illicit discharge investigation conducted, that a facility or site operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection and/or investigation.

- ii. Enforcement Action

In the event that a Permittee determines that a facility or site operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take enforcement action as established through authority in its municipal code and ordinances, through the judicial system, or refer the case to the Regional Water Board, per the Interagency Coordination provisions below.

- iii. Records Retention

Each Permittee shall maintain records, per their existing record retention policies, and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

- iv. Referral of Violations of Municipal Ordinances and California Water Code § 13260

A Permittee may refer a violation(s) of its municipal storm water ordinances and/or California Water Code section 13260 by Industrial and Commercial facilities and construction site operators to the Regional Water Board

provided that the Permittee has made a good faith effort of applying its Progressive Enforcement Policy to achieve compliance with its own ordinances. At a minimum, a Permittee's good faith effort must be documented with:

- (1) Two follow-up inspections, and
- (2) Two warning letters or notices of violation.

v. Referral of Violations of the Industrial and Construction General Permits, including Requirements to File a Notice of Intent or No Exposure Certification

For those facilities or site operators in violation of municipal storm water ordinances and subject to the Industrial and/or Construction General Permits, Permittees may escalate referral of such violations to the Regional Water Board (promptly via telephone or electronically) after one inspection and one written notice of violation (copied to the Regional Water Board) to the facility or site operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:

- (1) Name of the facility or site,
- (2) Operator of the facility or site,
- (3) Owner of the facility or site,
- (4) WDID Number (if applicable),
- (5) Records of communication with the facility/site operator regarding the violation, which shall include at least one inspection report,
- (6) The written notice of violation (copied to the Regional Water Board),
- (7) For industrial sites, the industrial activity being conducted at the facility that is subject to the Industrial General Permit, and
- (8) For construction sites, site acreage and Risk Factor rating.

b. Investigation of Complaints Transmitted by the Regional Water Board Staff

Each Permittee shall initiate, within one business day,²² investigation of complaints from facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm validity of the complaint and to determine if the facility is in compliance with municipal storm water ordinances and, if necessary, to oversee corrective action.

c. Assistance with Regional Water Board Enforcement Actions

As directed by the Regional Water Board Executive Officer, Permittees shall assist Regional Water Board enforcement actions by:

- i. Assisting in identification of current owners, operators, and lessees of properties and sites.**

²² Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

- ii. Providing staff, when available, for joint inspections with Regional Water Board inspectors.
- iii. Appearing to testify as witnesses in Regional Water Board enforcement hearings.
- iv. Providing copies of inspection reports and documentation demonstrating application of its Progressive Enforcement Policy.

3. Modifications/Revisions

- a. Each Permittee shall modify its storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements in this Order.

4. Requirements Applicable to the Los Angeles County Flood Control District

a. Public Information and Participation Program (PIPP)

i. General

- (1) The LACFCD shall participate in a regional Public Information and Participation Program (PIPP) or alternatively, shall implement its own PIPP that includes the requirements listed in this part. The LACFCD shall collaborate, as necessary, with other Permittees to implement PIPP requirements. The objectives of the PIPP are as follows:
 - (a) To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.
 - (b) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by encouraging the implementation of appropriate alternatives by providing information to the public.
 - (c) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of stormwater pollution.

ii. PIPP Implementation

- (1) The LACFCD shall implement the PIPP requirements listed in this Part VI.D.5 using one or more of the following approaches:
 - (a) By participating in a collaborative PIPP covering the entire service area of the Los Angeles County Flood Control District,
 - (b) By participating in one or more Watershed Group sponsored PIPPs, and/or
 - (c) Individually within the service area of the Los Angeles County Flood Control District.

- (2) If the LACFCD participates in a collaborative District-wide or Watershed Group PIPP, the LACFCD shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

iii. Public Participation

- (1) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the countywide hotline (888-CLEAN-LA) for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water management information.
 - (a) The LACFCD shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.
 - (b) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the www.888cleanla.com website.

iv. Residential Outreach Program

- (1) Working in conjunction with a District-wide or Watershed Group sponsored PIPP or individually, the LACFCD shall implement the following activities:
 - (a) Conduct storm water pollution prevention public service announcements and advertising campaigns
 - (b) Facilitate the dissemination of public education materials including, at a minimum, information on the proper handling (i.e., disposal, storage and/or use) of:
 - () Vehicle waste fluids
 - (i) Household waste materials (i.e., trash and household hazardous waste)
 - (ii) Construction waste materials
 - (iii) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides),
 - (iv) Green waste (including lawn clippings and leaves)
 - (v) Animal wastes
 - (c) Facilitate the dissemination of activity-specific storm water pollution prevention public education materials, at a minimum, for the following points of purchase:
 - (i) Automotive parts stores

- (ii) Home improvement centers / lumber yards / hardware stores / paint stores
- (iii) Landscaping / gardening centers
- (iv) Pet shops / feed stores
- (d) Maintain a storm water website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.5.
- (e) When implementing activities in (a)-(d), the LACFCD shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

b. Industrial/Commercial Facilities Program

If the LACFCD operates, or has authority over, any facility(ies) identified in Part VI.D.6.b, LACFCD shall comply with the requirements in Part VI.D.6 for those facilities.

c. Public Agency Activities Program

i. General

- (1) The LACFCD shall implement a Public Agency Activities Program to minimize storm water pollution impacts from LACFCD-owned or operated facilities and activities. Requirements for Public Agency Facilities and Activities consist of the following components:
 - (a) Public Construction Activities Management.
 - (b) Public Facility Inventory
 - (c) Public Facility and Activity Management
 - (d) Vehicle and Equipment Washing
 - (e) Landscape and Recreational Facilities Management
 - (f) Storm Drain Operation and Maintenance
 - (g) Parking Facilities Management
 - (h) Emergency Procedures
 - (i) Employee and Contractor Training

ii. Public Construction Activities Management

- (1) The LACFCD shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at LACFCD-owned or operated public construction projects that are categorized under the project types identified in Part VI.D.7 of this Order.
- (2) The LACFCD shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at LACFCD-owned or operated construction projects as applicable.
- (3) For LACFCD-owned or operated projects that disturb less than one acre of soil, the LACFCD shall require the implementation of an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program).
- (4) The LACFCD shall obtain separate coverage under the Construction General Permit for all LACFCD-owned or operated construction sites that require coverage.

iii. Public Facility Inventory

- (1) The LACFCD shall maintain an updated watershed-based inventory and map of all LACFCD-owned or operated facilities that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:
 - (a) Chemical storage facilities
 - (b) Equipment storage and maintenance facilities (including landscape maintenance-related operations)
 - (c) Fueling or fuel storage facilities
 - (d) Materials storage yards
 - (e) Pesticide storage facilities
 - (f) LACFCD buildings
 - (g) LACFCD vehicle storage and maintenance yards
 - (h) All other LACFCD-owned or operated facilities or activities that the LACFCD determines may contribute a substantial pollutant load to the MS4.
- (2) The LACFCD shall include the following minimum fields of information for each LACFCD-owned or operated facility in its watershed-based inventory and map.
 - (a) Name of facility
 - (b) Name of facility manager and contact information

- (c) Address of facility (physical and mailing)
 - (d) A narrative description of activities performed and principal products used at each facility and status of exposure to storm water.
 - (e) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.
- (3) The LACFCD shall update its inventory and map once during the Permit term. The update shall be accomplished through a collection of new information obtained through field activities.

iv. Public Agency Facility and Activity Management

- (1) The LACFCD shall obtain separate coverage under the Industrial General Permit for all LACFCD-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.
- (2) The LACFCD shall implement the following measures for flood management projects:
 - (a) Develop procedures to assess the impacts of flood management projects on the water quality of receiving waterbodies; and
 - (b) Evaluate existing structural flood control facilities during the planning phases of major maintenance or rehabilitation projects to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.

- (3) The LACFCD shall implement and maintain the general and activity-specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs when such activities occur at LACFCD-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.
- (4) Any contractors hired by the LACFCD to conduct Public Agency Activities shall be contractually required to implement and maintain the general and activity specific BMPs listed in Table 18 or an equivalent set of BMPs. The LACFCD shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.
- (5) Effective source control BMPs for the activities listed in Table 18 shall be implemented at LACFCD-owned or operated facilities, unless the pollutant generating activity does not occur. The LACFCD shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL Provisions in Part VI.E, or a CWA section 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, the LACFCD shall implement additional site-specific controls.

v. Vehicle and Equipment Washing

- (1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all fixed vehicle and equipment washing areas;
- (2) The LACFCD shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:
 - (a) Self-contain, and haul off for disposal; or
 - (b) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations

- (3) The LACFCD shall ensure that any LACFCD facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

vi. Landscape and Recreational Facilities Management

- (1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all its public right-of-ways, flood control facilities and open channels and reservoirs, and landscape and recreational facilities and activities.
- (2) The LACFCD shall implement an IPM program that includes the following:
 - (a) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.
 - (b) Treatments are made with the goal of removing only the target organism.
 - (c) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.
 - (d) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.
 - (e) Partner, as appropriate, with other agencies and organizations to encourage the use of IPM.
 - (f) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.
 - (g) Policies, procedures, and ordinances shall include a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
 - (i) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
 - (ii) Quantify pesticide use by staff and hired contractors.
 - (iii) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

- (3) The LACFCD shall implement the following requirements:
 - (a) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
 - (b) Ensure there is no application of pesticides or fertilizers (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, (2) within 48 hours of a ½-inch rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides or pesticides which require water for activation.
 - (c) Ensure that no banned or unregistered pesticides are stored or applied.
 - (d) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
 - (e) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
 - (f) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.
 - (i) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
 - (ii) Regularly inspect storage areas.

vii. Storm Drain Operation and Management

- (1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 or equivalent set of BMPs for storm drain operation and maintenance.
- (2) Ensure that all the material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:
 - (a) Self-contain, and haul off for legal disposal; or
 - (b) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.
- (3) Catch Basin Cleaning
 - (a) In areas that are not subject to a trash TMDL, the LACFCD shall determine priority areas and shall update its map or list of catch basins with their GPS coordinates and priority:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

The map or list shall contain the rationale or data to support priority designations.

- (b) In areas not subject to a trash TMDL, the LACFCD shall inspect its catch basins according to the following schedule:

Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, LACFCD shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. LACFCD shall maintain inspection and cleaning records for Regional Water Board review.

- (c) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.

(4) Catch Basin Labels and Open Channel Signage

- (a) LACFCD shall label all catch basin inlets that they own with a legible "no dumping" message.
- (b) The LACFCD shall inspect the legibility of the catch basin stencil or label nearest the inlet prior to the wet season every year.
- (c) The LACFCD shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.
- (d) The LACFCD shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant waterbodies.

(5) Open Channel Maintenance

The LACFCD shall implement a program for Open Channel Maintenance that includes the following:

- (a) Visual monitoring of LACFCD owned open channels and other drainage structures for trash and debris at least annually;
 - (b) Removal of trash and debris from open channels a minimum of once per year before the wet season;
 - (c) Elimination of the discharge of contaminants produced by storm drain maintenance and clean outs; and
 - (d) Proper disposal of debris and trash removed during open channel maintenance.
- (6) Infiltration from Sanitary Sewer to MS4/Preventive Maintenance
- (a) The LACFCD shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to its MS4 through routine preventive maintenance of its MS4.
 - (b) The LACFCD shall implement controls to limit infiltration of seepage from sanitary sewers to its MS4 where necessary. Such controls must include:
 - (i) Adequate plan checking for construction and new development;
 - (ii) Incident response training for its employees that identify sanitary sewer spills;
 - (iii) Code enforcement inspections;
 - (iv) MS4 maintenance and inspections;
 - (v) Interagency coordination with sewer agencies; and
 - (vi) Proper education of its staff and contractors conducting field operations on its MS4.
- (7) LACFCD-Owned Treatment Control BMPs
- (a) The LACFCD shall implement an inspection and maintenance program for all LACFCD-owned treatment control BMPs, including post-construction treatment control BMPs.
 - (b) The LACFCD shall ensure proper operation of all its treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
 - (c) Any residual water produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:
 - (i) Hauled away and legally disposed of; or
 - (ii) Applied to the land without runoff; or
 - (iii) Discharged to the sanitary sewer system (with permits or authorization); or

- (iv) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations for Dewatering Treatment BMPs), prior to discharge to the MS4.

viii. Parking Facilities Management

LACFCD-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a LACFCD-owned parking lot be cleaned less than once a month.

ix. Emergency Procedures

The LACFCD may conduct repairs and rehabilitation of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

- (1) The LACFCD shall abide by all other regulatory requirements, including notification to other agencies as appropriate.
- (2) Where the self-waiver has been invoked, the LACFCD shall notify the Regional Water Board Executive Officer of the occurrence of the emergency no later than 30 business days after the situation of emergency has passed.
- (3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than one week) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

x. Employee and Contractor Training

- (1) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:
 - (a) Promote a clear understanding of the potential for activities to pollute storm water.
 - (b) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

- (2) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Outside contractors can self-certify, providing they certify they have received all applicable training required in the Order and have documentation to that effect. Training programs shall address:
 - (a) The potential for pesticide-related surface water toxicity.
 - (b) Proper use, handling, and disposal of pesticides.
 - (c) Least toxic methods of pest prevention and control, including IPM.
 - (d) Reduction of pesticide use.
- (3) The LACFCD shall require appropriate training of contractor employees in targeted positions as described above.

d. Illicit Connections and Illicit Discharge Elimination Program

i. General

- (1) The LACFCD shall continue to implement an Illicit Connection and Illicit Discharge (IC/ID) Program to detect, investigate, and eliminate IC/IDs to its MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in the following subsections.
- (2) As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.
- (3) The LACFCD's IC/ID Program shall consist of at least the following major program components:
 - (a) An up-to-date map of LACFCD's MS4
 - (b) Procedures for conducting source investigations for IC/IDs
 - (c) Procedures for eliminating the source of IC/IDs
 - (d) Procedures for public reporting of illicit discharges
 - (e) Spill response plan
 - (f) IC/IDs education and training for LACFCD staff

ii. MS4 Mapping

- (1) The LACFCD shall maintain an up-to-date and accurate electronic map of its MS4. If possible, the map should be maintained within a GIS. The map must show the following, at a minimum:
 - (a) Within one year of Permit adoption, the location of outfalls owned and maintained by the LACFCD. Each outfall shall be given an alphanumeric identifier, which must be noted on the map. Each mapped outfall shall be located using a geographic positioning system (GPS). Photographs of the major outfalls shall be taken to provide baseline information to track operation and maintenance needs over time.
 - (b) The location and length of open channels and underground storm drain pipes with a diameter of 36 inches or greater that are owned and operated by the LACFCD.
 - (c) The location and name of all waterbodies receiving discharges from those MS4 major outfalls identified in (a).
 - (d) All LACFCD's dry weather diversions installed within the MS4 to direct flows from the MS4 to the sanitary sewer system, including the owner and operator of each diversion.
 - (e) By the end of the Permit term, map all known permitted and documented connections to its MS4 system.
- (2) The MS4 map shall be updated as necessary.

iii. Illicit Discharge Source Investigation and Elimination

- (1) The LACFCD shall develop written procedures for conducting investigations to prioritize and identify the source of all illicit discharges to its MS4, including procedures to eliminate the discharge once the source is located.
- (2) At a minimum, the LACFCD shall initiate²³ an investigation(s) to identify and locate the source within one business day of becoming aware of the illicit discharge.
- (3) When conducting investigations, the LACFCD shall comply with the following:
 - (a) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.
 - (b) The LACFCD shall track all investigations to document, at a minimum, the date(s) the illicit discharge was observed; the results

²³ Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, occur within two business days of becoming aware of the illicit discharge.

- of the investigation; any follow-up of the investigation; and the date the investigation was closed.
- (c) The LACFCD shall prioritize and investigate the source of all observed illicit discharges to its MS4.
 - (d) If the source of the illicit discharge is found to be a discharge authorized under an NPDES permit, the LACFCD shall document the source and report to the Regional Water Board within 30 days of determination. No further action is required.
 - (e) If the source of the illicit discharge has been determined to originate from within the jurisdiction of other Permittee(s) with land use authority over the suspected responsible party/parties, the LACFCD shall immediately alert the appropriate Permittee(s) of the problem for further action by the Permittee(s).
- (4) When taking corrective action to eliminate illicit discharges, the LACFCD shall comply with the following:
- (a) If the source of the illicit discharge has been determined or suspected by the LACFCD to originate within an upstream jurisdiction(s), the LACFCD shall immediately notify the upstream jurisdiction(s), and notify the Regional Water Board within 30 days of such determination and provide all the information collected and efforts taken.
 - (b) Once the Permittee with land use authority over the suspected responsible party/parties has been alerted, the LACFCD may continue to work in cooperation with the Permittee(s) to notify the responsible party/parties of the problem, and require the responsible party/parties to immediately initiate necessary corrective actions to eliminate the illicit discharge. Upon being notified that the discharge has been eliminated, the LACFCD may, in conjunction with the Permittee(s) conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned up to the satisfaction of the LACFCD. The LACFCD shall document its follow-up investigation. The LACFCD may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection and investigation activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy.
 - (c) If the source of the illicit discharge cannot be traced to a suspected responsible party, the LACFCD, in conjunction with other affected Permittees, shall continue implementing the illicit discharge/spill response plan.

- (5) In the event the LACFCD and/or other Permittees are unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, including the inability to find the responsible party/parties, or other circumstances prevent the full elimination of an ongoing illicit discharge, the LACFCD and/or other Permittees shall notify the Regional Water Board within 30 days of such determination and provide available information to the Regional Water Board.

iv. Identification and Response to Illicit Connections

- (1) Investigation

The LACFCD, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

- (2) Elimination

The LACFCD, upon confirmation of an illicit connection to its MS4, shall ensure that the connection is:

- (a) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowable under this Order or other individual or general NPDES Permits/WDRs, or
- (b) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

- (3) Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

v. Public Reporting of Non-Stormwater Discharges and Spills

- (1) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and corresponding internet site at www.888cleanla.org to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.
- (2) The LACFCD shall include information regarding public reporting of illicit discharges or improper disposal on the signage adjacent to open channels as required in Part VI.D.9.h.vi.(4).
- (3) The LACFCD shall develop and maintain written procedures that document how complaint calls and internet submissions are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated annually to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the LACFCD. Any identified changes shall be made to the procedures subsequent to the annual evaluation.
- (4) The LACFCD shall maintain documentation of the complaint calls and internet submissions and record the location of the reported spill or IC/ID and the actions undertaken, including referrals to other agencies, in response to all IC/ID complaints.

vi. Illicit Discharge and Spill Response Plan

- (1) The LACFCD shall implement an ID and spill response plan for all spills that may discharge into its system. The ID and spill response plan shall clearly identify agencies responsible for ID and spill response and cleanup, contact information, and shall contain at a minimum the following requirements:
 - (a) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.
 - (b) Initiation of investigation of all public and employee ID and spill complaints within one business day of receiving the complaint to assess validity.
 - (c) Response to ID and spills within 4 hours of becoming aware of the ID or spill, except where such IDs or spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.
 - (d) IDs or spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

vii. Illicit Connection and Illicit Discharge Education and Training

- (1) The LACFCD must continue to implement a training program regarding the identification of IC/IDs for all LACFCD field staff, who, as part of their normal job responsibilities (e.g., storm drain inspection and maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to its MS4. Contact information, including the procedure for reporting an illicit discharge, must be included in the LACFCD's fleet vehicles that are used by field staff. Training program documents must be available for review by the Regional Water Board.
- (2) The LACFCD's training program should address, at a minimum, the following:
 - (a) IC/ID identification, including definitions and examples,
 - (b) investigation,
 - (c) elimination,
 - (d) cleanup,
 - (e) reporting, and
 - (f) documentation.
- (3) The LACFCD must create a list of applicable positions which require IC/ID training and ensure that training is provided at least twice during the term of this Order. The LACFCD must maintain documentation of the training activities.
- (4) New LACFCD staff members must be provided with IC/ID training within 180 days of starting employment.
- (5) The LACFCD shall require its contractors to train their employees in targeted positions as described above.

5. Public Information and Participation Program

a. General

- i. Each Permittee shall implement a Public Information and Participation Program (PIPP) that includes the requirements listed in this Part VI.D.5. Each Permittee shall be responsible for developing and implementing the PIPP and implementing specific PIPP requirements. The objectives of the PIPP are as follows:
 - (1) To measurably increase the knowledge of the target audiences about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.
 - (2) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by developing and encouraging the implementation of appropriate alternatives.

- (3) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

b. PIPP Implementation

- i. Each Permittee shall implement the PIPP requirements listed in this Part VI.D.4 using one or more of the following approaches:
 - (1) By participating in a County-wide PIPP,
 - (2) By participating in one or more Watershed Group sponsored PIPPs, and/or
 - (3) Or individually within its jurisdiction.
- ii. If a Permittee participates in a County-wide or Watershed Group PIPP, the Permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

c. Public Participation

- i. Each Permittee, whether participating in a County-wide or Watershed Group sponsored PIPP, or acting individually, shall provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water and non-storm water pollution prevention information.
 - (1) Permittees may elect to use the 888-CLEAN-LA hotline as the general public reporting contact or each Permittee or Watershed Group may establish its own hotline, if preferred.
 - (2) Each Permittee shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.
 - (3) Each Permittee shall identify staff or departments who will serve as the contact person(s) and shall make this information available on its website.
 - (4) Each Permittee is responsible for providing current, updated hotline contact information to the general public within its jurisdiction.
- ii. Organize events targeted to residents and population subgroups to educate and involve the community in storm water and non-storm water pollution prevention and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling).

d. Residential Outreach Program

- i. Working in conjunction with a County-wide or Watershed Group sponsored PIPP or individually, each Permittee shall implement the following activities:

- (1) Conduct storm water pollution prevention public service announcements and advertising campaigns
- (2) Public education materials shall include but are not limited to information on the proper handling (i.e., disposal, storage and/or use) of:
 - (a) Vehicle waste fluids
 - (b) Household waste materials (i.e., trash and household hazardous waste, including personal care products and pharmaceuticals)
 - (c) Construction waste materials
 - (d) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides)
 - (e) Green waste (including lawn clippings and leaves)
 - (f) Animal wastes
- (3) Distribute activity specific storm water pollution prevention public education materials at, but not limited to, the following points of purchase:
 - (a) Automotive parts stores
 - (b) Home improvement centers / lumber yards / hardware stores/paint stores
 - (c) Landscaping / gardening centers
 - (d) Pet shops / feed stores
- (4) Maintain storm water websites or provide links to storm water websites via the Permittee's website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.4.
- (5) Provide independent, parochial, and public schools within in each Permittee's jurisdiction with materials to educate school children (K-12) on storm water pollution. Material may include videos, live presentations, and other information. Permittees are encouraged to work with, or leverage, materials produced by other statewide agencies and associations such as the State Water Board's "Erase the Waste" educational program and the California Environmental Education Interagency Network (CEEIN) to implement this requirement.
- (6) When implementing activities in subsections (1)-(5), Permittees shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

6. Industrial/Commercial Facilities Program

a. General

- i. Each Permittee shall implement an Industrial / Commercial Facilities Program that meets the requirements of this Part VI.D.6. The Industrial / Commercial

Facilities Program shall be designed to prevent illicit discharges into the MS4 and receiving waters, reduce industrial / commercial discharges of storm water to the maximum extent practicable, and prevent industrial / commercial discharges from the MS4 from causing or contributing to a violation of receiving water limitations. At a minimum, the Industrial / Commercial Facilities Program shall be implemented in accordance with the requirements listed in this Part VI.D.6, or as approved in a Watershed Management Program per Part VI.C. Minimum program components shall include the following components:

- (1) Track
- (2) Educate
- (3) Inspect
- (4) Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water

b. Track Critical Industrial / Commercial Sources

- i. Each Permittee shall maintain an updated watershed-based inventory or database containing the latitude / longitude coordinates of all industrial and commercial facilities within its jurisdiction that are critical sources of storm water pollution. The inventory or database shall be maintained in electronic format and incorporation of facility information into a Geographical Information System (GIS) is recommended. Critical Sources to be tracked are summarized below:

- (1) Commercial Facilities
 - (a) Restaurants
 - (b) Automotive service facilities (including those located at automotive dealerships)
 - (c) Retail Gasoline Outlets
 - (d) Nurseries and Nursery Centers (Merchant Wholesalers, Nondurable Goods, and Retail Trade)
- (2) USEPA "Phase I" Facilities [as specified in 40 CFR §122.26(b)(14)(i)-(xi)]
- (3) Other federally-mandated facilities [as specified in 40 CFR §122.26(d)(2)(iv)(C)]
 - (a) Municipal landfills
 - (b) Hazardous waste treatment, disposal, and recovery facilities
 - (c) Industrial facilities subject to section 313 "Toxic Release Inventory" reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) [42 U.S.C. § 11023]
- (4) All other commercial or industrial facilities that the Permittee determines may contribute a substantial pollutant load to the MS4.

- ii. Each Permittee shall include the following minimum fields of information for each critical source industrial and commercial facility identified in its watershed-based inventory or database:
 - (1) Name of facility
 - (2) Name of owner/ operator and contact information
 - (3) Address of facility (physical and mailing)
 - (4) North American Industry Classification System (NAICS) code
 - (5) Standard Industrial Classification (SIC) code
 - (6) A narrative description of the activities performed and/or principal products produced
 - (7) Status of exposure of materials to storm water
 - (8) Name of receiving water
 - (9) Identification of whether the facility is tributary to a CWA § 303(d) listed water body segment or water body segment subject to a TMDL, where the facility generates pollutants for which the water body segment is impaired.
 - (10) Ability to denote if the facility is known to maintain coverage under the State Water Board's General NPDES Permit for the Discharge of Stormwater Associated with Industrial Activities (Industrial General Permit) or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.
 - (11) Ability to denote if the facility has filed a No Exposure Certification with the State Water Board.
- iii. Each Permittee shall update its inventory of critical sources at least annually. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter- and intra-agency informational databases (e.g., business licenses, pretreatment permits, sanitary sewer connection permits, and similar information).

c. Educate Industrial / Commercial Sources

- i. At least once during the five-year period of this Order, each Permittee shall notify the owner/operator of each of its inventoried commercial and industrial sites identified in Part VI.D.6.b of the BMP requirements applicable to the site/source.
- ii. Business Assistance Program
 - (1) Each Permittee shall implement a Business Assistance Program to provide technical information to businesses to facilitate their efforts to reduce the discharge of pollutants in storm water. Assistance shall be targeted to select business sectors or small businesses upon a determination that their activities may be contributing substantial pollutant

loads to the MS4 or receiving water. Assistance may include technical guidance and provision of educational materials. The Program may include:

- (a) On-site technical assistance, telephone, or e-mail consultation regarding the responsibilities of business to reduce the discharge of pollutants, procedural requirements, and available guidance documents.
- (b) Distribution of storm water pollution prevention educational materials to operators of auto repair shops; car wash facilities; restaurants and mobile sources including automobile/equipment repair, washing, or detailing; power washing services; mobile carpet, drape, or upholstery cleaning services; swimming pool, water softener, and spa services; portable sanitary services; and commercial applicators and distributors of pesticides, herbicides and fertilizers, if present.

d. Inspect Critical Commercial Sources

i. Frequency of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities identified in Part VI.D.6.b twice during the 5-year term of the Order, provided that the first mandatory compliance inspection occurs no later than 2 years after the effective date of this Order. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each Permittee shall implement the activities outlined in the following subparts.

ii. Scope of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities to confirm that storm water and non-storm water BMPs are being effectively implemented in compliance with municipal ordinances. At each facility, inspectors shall verify that the operator is implementing effective source control BMPs for each corresponding activity. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA), a water body subject to TMDL provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

e. Inspect Critical Industrial Sources

Each Permittee shall conduct industrial facility compliance inspections as specified below.

i. Frequency of Mandatory Industrial Facility Compliance Inspections

(1) Minimum Inspection Frequency

Each Permittee shall perform an initial mandatory compliance inspection at all industrial facilities identified in Part VI.D.6.b no later than 2 years after the effective date of this Order. After the initial inspection, all

facilities that have not filed a No Exposure Certification with the State Water Board are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action as specified in Part VI.D.6.h below.

(2) Exclusion of Facilities Previously Inspected by the Regional Water Board

Each Permittee shall review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database²⁴ at defined intervals to determine if an industrial facility has recently been inspected by the Regional Water Board. The first interval shall occur approximately 2 years after the effective date of the Order. The Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period. The second interval shall occur approximately 4 years after the effective date of the Order. Likewise, the Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period.

(3) No Exposure Verification

As a component of the first mandatory inspection, each Permittee shall identify those facilities that have filed a No Exposure Certification with the State Water Board. Approximately 3 to 4 years after the effective date of the Order, each Permittee shall evaluate its inventory of industrial facilities and perform a second mandatory compliance inspection at a minimum of 25% of the facilities identified to have filed a No Exposure Certification. The purpose of this inspection is to verify the continuity of the no exposure status.

(4) Exclusion Based on Watershed Management Program

A Permittee is exempt from the mandatory inspection frequencies listed above if it is implementing industrial inspections in accordance with an approved Watershed Management Program per Part VI.C.

ii. Scope of Mandatory Industrial Facility Inspections

Each Permittee shall confirm that each industrial facility:

- (1) Has a current Waste Discharge Identification (WDID) number for coverage under the Industrial General Permit, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site; *or*
- (2) Has applied for, and has received a current No Exposure Certification for facilities subject to this requirement;
- (3) Is effectively implementing BMPs in compliance with municipal ordinances. Facilities must implement the source control BMPs identified

²⁴ SMARTS is accessible at <https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp>

in Table 10, unless the pollutant generating activity does not occur. The Permittees shall require implementation of additional BMPs where storm water from the MS4 discharges to a water body subject to TMDL Provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, if the specified BMPs are not adequately protective of water quality standards, a Permittee may require additional site-specific controls. For critical sources that discharge to MS4s that discharge to SEAs, each Permittee shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards.

- (4) Applicable industrial facilities identified as not having either a current WDID or No Exposure Certification shall be notified that they must obtain coverage under the Industrial General Permit and shall be referred to the Regional Water Board per the Progressive Enforcement Policy procedures identified in Part VI.D.2.

f. Source Control BMPs for Commercial and Industrial Facilities

Effective source control BMPs for the activities listed in Table 10 shall be implemented at commercial and industrial facilities, unless the pollutant generating activity does not occur:

Table 10. Source Control BMPs at Commercial and Industrial Facilities

Pollutant-Generating Activity	BMP Narrative Description
Unauthorized Non-Storm water Discharges	Effective elimination of non-storm water discharges
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures
Vehicle/ Equipment Fueling	Implementation of effective fueling source control devices and practices
Vehicle/ Equipment Cleaning	Implementation of effective equipment/ vehicle cleaning practices and appropriate wash water management practices
Vehicle/ Equipment Repair	Implementation of effective vehicle/ equipment repair practices and source control devices
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices
Outdoor Equipment Operations	Implementation of effective outdoor equipment source control devices and practices
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures
Building and Grounds Maintenance	Implementation of effective facility maintenance practices

Pollutant-Generating Activity	BMP Narrative Description
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices
Storm water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols
Pollutant-Generating Activity	BMP Narrative Description from Regional Water Board Resolution No. 98-08
Sidewalk Washing	<ol style="list-style-type: none"> 1. Remove trash, debris, and free standing oil/grease spills/leaks (use absorbent material, if necessary) from the area before washing; and 2. Use high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area.
Street Washing	Collect and divert wash water to the sanitary sewer – publically owned treatment works (POTW). Note: POTW approval may be needed.

g. Significant Ecological Areas (SEAs)

See VI.D.6.e.ii.3.

h. Progressive Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that Industrial / Commercial facilities are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

7. Planning and Land Development Program

a. Purpose

i. Each Permittee shall implement a Planning and Land Development Program pursuant to Part VI.D.7.b for all New Development and Redevelopment projects subject to this Order to:

(1) Lessen the water quality impacts of development by using smart growth practices such as compact development, directing development towards existing communities via infill or redevelopment, and safeguarding of environmentally sensitive areas.

(2) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of water

bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21000 et seq.).

- (3) Minimize the percentage of impervious surfaces on land developments by minimizing soil compaction during construction, designing projects to minimize the impervious area footprint, and employing Low Impact Development (LID) design principles to mimic predevelopment hydrology through infiltration, evapotranspiration and rainfall harvest and use.
- (4) Maintain existing riparian buffers and enhance riparian buffers when possible.
- (5) Minimize pollutant loadings from impervious surfaces such as roof tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs (including Source Control BMPs such as good housekeeping practices), LID Strategies, and Treatment Control BMPs.
- (6) Properly select, design and maintain LID and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce changes to pre-development hydrology, assure long-term function, and avoid the breeding of vectors²⁵.
- (7) Prioritize the selection of BMPs to remove storm water pollutants, reduce storm water runoff volume, and beneficially use storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:
 - (a) On-site infiltration, bioretention and/or rainfall harvest and use.
 - (b) On-site biofiltration, off-site ground water replenishment, and/or off-site retrofit.

b. Applicability

i. New Development Projects

- (1) Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:
 - (a) All development projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious surface area
 - (b) Industrial parks 10,000 square feet or more of surface area
 - (c) Commercial malls 10,000 square feet or more surface area
 - (d) Retail gasoline outlets 5,000 square feet or more of surface area
 - (e) Restaurants (SIC 5812) 5,000 square feet or more of surface area

²⁵ Treatment BMPs when designed to drain within 96 hours of the end of rainfall minimize the potential for the breeding of vectors. See California Department of Public Health *Best Management Practices for Mosquito Control in California* (2012) at <http://www.westnile.ca.gov/resources.php>

- (f) Parking lots 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces
- (g) Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets²⁶ (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.
- (h) Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area
- (i) Redevelopment projects in subject categories that meet Redevelopment thresholds identified in Part VI.D.6.b.ii (Redevelopment Projects) below
- (j) Projects located in or directly adjacent to, or discharging directly to a Significant Ecological Area (SEA), where the development will:
 - (i) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and
 - (ii) Create 2,500 square feet or more of impervious surface area
- (k) Single-family hillside homes. To the extent that a Permittee may lawfully impose conditions, mitigation measures or other requirements on the development or construction of a single-family home in a hillside area as defined in the applicable Permittee's Code and Ordinances, each Permittee shall require that during the construction of a single-family hillside home, the following measures are implemented:
 - (i) Conserve natural areas
 - (ii) Protect slopes and channels
 - (iii) Provide storm drain system stenciling and signage
 - (iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability
 - (v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

ii. Redevelopment Projects

- (1) Redevelopment projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:
 - (a) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area

²⁶ <http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm>

- on an already developed site on development categories identified in Part VI.D.6.c. (New Development/Redevelopment Performance Criteria).
- (b) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, the entire project must be mitigated.
 - (c) Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, only the alteration must be mitigated, and not the entire development.
 - (i) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade.
 - (ii) Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.
 - (d) In this section, Existing Development or Redevelopment projects shall mean all discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals within 90 days of adoption of the Order. Projects that have been deemed complete within 90 days of adoption of the Order are not subject to the requirements Section 7.c. For Permittee's projects the effective date shall be the date the governing body or their designee approves initiation of the project design.
 - (e) Specifically, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order No. R4-2012-0139). All subsequent phases of the Newhall Ranch Project constructed during the term of this Order shall be subject to the requirements of this Order.

c. New Development/ Redevelopment Project Performance Criteria

i. Integrated Water Quality/Flow Reduction/Resources Management Criteria

- (1) Each Permittee shall require all New Development and Redevelopment projects (referred to hereinafter as “new projects”) identified in Part VI.D.7.b to control pollutants, pollutant loads, and runoff volume emanating from the project site by: (1) minimizing the impervious surface area and (2) controlling runoff from impervious surfaces through infiltration, bioretention and/or rainfall harvest and use.
- (2) Except as provided in Part VI.D.7.c.ii. (Technical Infeasibility or Opportunity for Regional Ground Water Replenishment), Part VI.D.7.d.i (Local Ordinance Equivalence), or Part VI.D.7.c.v (Hydromodification), below, each Permittee shall require the project to retain on-site the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:
 - (a) The 0.75-inch, 24-hour rain event or
 - (b) The 85th percentile, 24-hour rain event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, *whichever is greater*.
- (3) Bioretention and biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.
- (4) When evaluating the potential for on-site retention, each Permittee shall consider the maximum potential for evapotranspiration from green roofs and rainfall harvest and use.

ii. Alternative Compliance for Technical Infeasibility or Opportunity for Regional Ground Water Replenishment

- (1) In instances of technical infeasibility or where a project has been determined to provide an opportunity to replenish regional ground water supplies at an offsite location, each Permittee may allow projects to comply with this Order through the alternative compliance measures as described in Part VI.D.7.c.iii.
- (2) To demonstrate technical infeasibility, the project applicant must demonstrate that the project cannot reliably retain 100 percent of the SWQDv on-site, even with the maximum application of green roofs and rainwater harvest and use, and that compliance with the applicable post-construction requirements would be technically infeasible by submitting a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. Technical infeasibility may result from conditions including the following:
 - (a) The infiltration rate of saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soils to attain an infiltration rate necessary to achieve reliable performance of infiltration or bioretention BMPs in retaining the SWQDv on-site.

- (b) Locations where seasonal high ground water is within 5 to 10 feet of the surface,
 - (c) Locations within 100 feet of a ground water well used for drinking water,
 - (d) Brownfield development sites where infiltration poses a risk of causing pollutant mobilization,
 - (e) Other locations where pollutant mobilization is a documented concern²⁷,
 - (f) Locations with potential geotechnical hazards, or
 - (g) Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the on-site volume retention requirement.
- (3) To utilize alternative compliance measures to replenish ground water at an offsite location, the project applicant shall demonstrate (i) why it is not advantageous to replenish ground water at the project site, (ii) that ground water can be used for beneficial purposes at the offsite location, and (iii) that the alternative measures shall also provide equal or greater water quality benefits to the receiving surface water than the Water Quality/Flow Reduction/Resource Management Criteria in Part VI.7.D.c.i.

iii. Alternative Compliance Measures

When a Permittee determines a project applicant has demonstrated that it is technically infeasible to retain 100 percent of the SWQDv on-site, or is proposing an alternative offsite project to replenish regional ground water supplies, the Permittee shall require one of the following mitigation options:

(1) On-site Biofiltration

- (a) If using biofiltration due to demonstrated technical infeasibility, then the new project must biofiltrate 1.5 times the portion of the SWQDv that is not reliably retained on-site, as calculated by Equation 1 below.

Equation 1:

$$B_v = 1.5 * [SWQD_v - R_v]$$

Where:

Bv = biofiltration volume

²⁷ Pollutant mobilization is considered a documented concern at or near properties that are contaminated or store hazardous substances underground.

SWQDv = the storm water runoff from a 0.75 inch, 24-hour storm or the 85th percentile storm, *whichever is greater*.

Rv = volume reliably retained on-site

(b) Conditions for On-site Biofiltration

- (i) Biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.
- (ii) Biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to nitrogen compounds or related effects shall be designed and maintained to achieve enhanced nitrogen removal capability. See Attachment H for design criteria for underdrain placement to achieve enhanced nitrogen removal.

(2) Offsite Infiltration

- (a) Use infiltration or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv, less the volume of storm water runoff reliably retained on-site, at an approved offsite project, and
- (b) Provide pollutant reduction (treatment) of the storm water runoff discharged from the project site in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.
- (c) The required offsite mitigation volume shall be calculated by Equation 2 below and equal to:

Equation 2:

$$Mv = 1.0 * [SWQDv - Rv]$$

Where:

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, *whichever is greater*

Rv = the volume of storm water runoff reliably retained on-site.

(3) Ground Water Replenishment Projects

Permittees may propose, in their Watershed Management Program or EWMP, regional projects to replenish regional ground water supplies at offsite locations, provided the groundwater supply has a designated beneficial use in the Basin Plan.

- (a) Regional groundwater replenishment projects must use infiltration, ground water replenishment, or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv for new development and redevelopment projects, subject to Permittee conditioning and approval for the design and implementation of post-construction controls, within the approved project area, and
- (b) Provide pollutant reduction (treatment) of the storm water runoff discharged from development projects, within the project area, subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.
- (c) Permittees implementing a regional ground water replenishment project in lieu of onsite controls shall ensure the volume of runoff captured by the project shall be equal to:

Equation 2:

$$Mv = 1.0 * [SWQDv - Rv]$$

Where:

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, whichever is greater

Rv = the volume of storm water runoff reliably retained on-site.

- (d) Regional groundwater replenishment projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment projects which did not implement on site retention BMPs . Each Permittee may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.

(4) Offsite Project - Retrofit Existing Development

Use infiltration, bioretention, rainfall harvest and use and/or biofiltration BMPs to retrofit an existing development, with similar land uses as the new development or land uses associated with comparable or higher storm water runoff event mean concentrations (EMCs) than the new development.

Comparison of EMCs for different land uses shall be based on published data from studies performed in southern California. The retrofit plan shall be designed and constructed to:

- (a) Intercept a volume of storm water runoff equal to the mitigation volume (M_v) as described above in Equation 2, except biofiltration BMPs shall be designed to meet the biofiltration volume as described in Equation 1 and
- (b) Provide pollutant reduction (treatment) of the storm water runoff from the project site as described in the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(5) Conditions for Offsite Projects

- (a) Project applicants seeking to utilize these alternative compliance provisions may propose other offsite projects, which the Permittees may approve if they meet the requirements of this subpart.
- (b) Location of offsite projects. Offsite projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment project. Each Permittee may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.
- (c) Project applicant must demonstrate that equal benefits to ground water recharge cannot be met on the project site.
- (d) Each Permittee shall develop a prioritized list of offsite mitigation, ground water replenishment and/or retrofit projects, and when feasible, the mitigation must be directed to the highest priority project within the same HUC-12 or if approved by the Regional Water Board Executive Officer, the HUC-10 drainage area, as the new development project.
- (e) Infiltration/bioretention shall be the preferred LID BMP for offsite mitigation or ground water replenishment projects. Offsite retrofit projects may include green streets, parking lot retrofits, green roofs, and rainfall harvest and use. Biofiltration BMPs may be considered for retrofit projects when infiltration, bioretention or rainfall harvest and use is technically infeasible.
- (f) Each Permittee shall develop a schedule for the completion of offsite projects, including milestone dates to identify, fund, design, and construct the projects. Offsite projects shall be completed as soon as possible, and at the latest, within 4 years of the certificate of occupancy for the first project that contributed funds toward the

construction of the offsite project, unless a longer period is otherwise authorized by the Executive Officer of the Regional Water Board. For public offsite projects, each Permittee must provide in their annual reports a summary of total offsite project funds raised to date and a description (including location, general design concept, volume of water expected to be retained, and total estimated budget) of all pending public offsite projects. Funding sufficient to address the offsite volume must be transferred to the Permittee (for public offsite mitigation projects) or to an escrow account (for private offsite mitigation projects) within one year of the initiation of construction.

- (g) Offsite projects must be approved by the Permittee and may be subject to approval by the Regional Water Board Executive Officer, if a third-party petitions the Executive Officer to review the project. Offsite projects will be publicly noticed on the Regional Water Board's website for 30 days prior to approval.
- (h) The project applicant must perform the offsite projects as approved by either the Permittee or the Regional Water Board Executive Officer or provide sufficient funding for public or private offsite projects to achieve the equivalent mitigation storm water volume.

(6) Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for New and Redevelopment requirements for the area covered by the regional or sub-regional storm water mitigation program. Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation meets all of the following requirements:

- (a) Retains the runoff from the 85th percentile, 24-hour rain event or the 0.75 inch, 24-hour rain event, whichever is greater;
- (b) Results in improved storm water quality;
- (c) Protects stream habitat;
- (d) Promotes cooperative problem solving by diverse interests;
- (e) Is fiscally sustainable and has secure funding; and
- (f) Is completed in five years including the construction and start-up of treatment facilities.
- (g) Nothing in this provision shall be construed as to delay the implementation of requirements for new and redevelopment, as approved in this Order.

(7) Water Quality Mitigation Criteria

- (a) Each Permittee shall require all New Development and Redevelopment projects that have been approved for offsite mitigation or ground water replenishment projects as defined in Part VI.D.7.c.ii-iii to also provide treatment of storm water runoff from the project site. Each Permittee shall require these projects to design and implement post-construction storm water BMPs and control measures to reduce pollutant loading as necessary to:
- (i) Meet the pollutant specific benchmarks listed in Table 11 at the treatment systems outlet or prior to the discharge to the MS4, and
 - (ii) Ensure that the discharge does not cause or contribute to an exceedance of water quality standards at the Permittee's downstream MS4 outfall.
- (b) Each Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems with a demonstrated efficiency at least equivalent to a sand filter. The sizing of the flow through treatment device shall be based on a rainfall intensity of:
- (i) 0.2 inches per hour, or
 - (ii) The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, *whichever is greater*.

Table 11. Benchmarks Applicable to New Development Treatment BMPs²⁸

Conventional Pollutants

Pollutant	Suspended Solids mg/L	Total P mg/L	Total N mg/L		TKN mg/L	
Effluent Concentration	14	0.13	1.28		1.09	

Metals

Pollutant	Total Cd µg/L	Total Cu µg/L	Total Cr µg/L	Total Pb µg/L	Total Zn µg/L
Effluent Concentration	0.3	6	2.8	2.5	23

²⁸ The treatment control BMP performance benchmarks were developed from the median effluent water quality values of the six highest performing BMPs, per pollutant, in the storm water BMP database (<http://www.bmpdatabase.org/>, last visited September 25, 2012).

- (c) In addition to the requirements for controlling pollutant discharges as described in Part VI.D.7.c.iii. and the treatment benchmarks described above, each Permittee shall ensure that the new development or redevelopment will not cause or contribute to an exceedance of applicable water quality-based effluent limitations established in Part VI.E pursuant to Total Maximum Daily Loads (TMDLs).

iv. Hydromodification (Flow/ Volume/ Duration) Control Criteria

Each Permittee shall require all New Development and Redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii) to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-project storm water runoff flow rates and durations.

(1) Description

- (a) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential (E_p) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries (see Attachment J - Determination of Erosion Potential).
- (ii) Hydromodification control may include one, or a combination of on-site, regional or sub-regional hydromodification control BMPs, LID strategies, or stream and riparian buffer restoration measures. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems.
- (iii) Natural drainage systems that are subject to the hydromodification assessments and controls as described in this Part of the Order, include all drainages that have not been improved (e.g., channelized or armored with concrete, shotcrete, or rip-rap) or drainage systems that are tributary to a natural drainage system, except as provided in Part VI.D.7c.iv.(1)(b)--Exemptions to Hydromodification Controls [see below]. The clearing or dredging of a natural drainage system does not constitute an "improvement."
- (iv) Until the State Water Board or the Regional Water Board adopts a final Hydromodification Policy or criteria, Permittees shall implement the Hydromodification Control Criteria described in Part VI.D.7.c.iv.(1)(c) to control the potential adverse impacts of changes in hydrology that may result from new development and

redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii).

- (b) Exemptions to Hydromodification Controls. Permittees may exempt the following New Development and Redevelopment projects from implementation of hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse hydromodification effects to beneficial uses of Natural Drainage Systems are unlikely:
- (i) Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.
 - (ii) Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.
 - (iii) Projects that have any increased discharge directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts.
 - (iv) Projects that discharge directly or via a storm drain into concrete or otherwise engineered (not natural) channels (e.g., channelized or armored with rip rap, shotcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to hydromodification impacts (as in Parts VI.D.7.c.iv.(1)(b)(i)-(iii) above).
 - (v) LID BMPs implemented on single family homes are sufficient to comply with Hydromodification criteria.
- (c) Hydromodification Control Criteria. The Hydromodification Control Criteria to protect natural drainage systems are as follows:
- (i) Except as provided for in Part VI.D.7.c.iv.(1)(b), projects disturbing an area greater than 1 acre but less than 50 acres within natural drainage systems will be presumed to meet pre-development hydrology if one of the following demonstrations is made:
 1. The project is designed to retain on-site, through infiltration, evapotranspiration, and/or harvest and use, the storm water volume from the runoff of the 95th percentile, 24-hour storm, or
 2. The runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour rainfall event. This condition may be substantiated by simple screening models, including those described in *Hydromodification Effects on Flow Peaks*

and Durations in Southern California Urbanizing Watersheds (Hawley et al., 2011) or other models acceptable to the Executive Officer of the Regional Water Board, or

3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J. Alternatively, Permittees can opt to use other work equations to calculate Erosion Potential with Executive Officer approval.
- (ii) Projects disturbing 50 acres or more within natural drainage systems will be presumed to meet pre-development hydrology based on the successful demonstration of one of the following conditions:
1. The site infiltrates on-site at least the runoff from a 2-year, 24-hour storm event, or
 2. The runoff flow rate, volume, velocity, and duration for the post-development condition does not exceed the pre-development condition for the 2-year, 24-hour rainfall events. These conditions must be substantiated by hydrologic modeling acceptable to the Regional Water Board Executive Officer, or
 3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J.

(c) Alternative Hydromodification Criteria

- (i) Permittees may satisfy the requirement for Hydromodification Controls by implementing the hydromodification requirements in the County of Los Angeles Low Impact Development Manual (2009) for all projects disturbing an area greater than 1 acre within natural drainage systems.
- (ii) Each Permittee may alternatively develop and implement watershed specific Hydromodification Control Plans (HCPs). Such plans shall be developed no later than one year after the effective date of this Order.
- (iii) The HCP shall identify:
 1. Stream classifications
 2. Flow rate and duration control methods
 3. Sub-watershed mitigation strategies
 4. Stream and/or riparian buffer restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless

an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries.

(iv) The HCP shall contain the following elements:

1. Hydromodification Management Standards
2. Natural Drainage Areas and Hydromodification Management Control Areas
3. New Development and Redevelopment Projects subject to the HCP
4. Description of authorized Hydromodification Management Control BMPs
5. Hydromodification Management Control BMP Design Criteria
6. For flow duration control methods, the range of flows to control for, and goodness of fit criteria
7. Allowable low critical flow, Q_c , which initiates sediment transport
8. Description of the approved Hydromodification Model
9. Any alternate Hydromodification Management Model and Design
10. Stream Restoration Measures Design Criteria
11. Monitoring and Effectiveness Assessment
12. Record Keeping
13. The HCP shall be deemed in effect upon Executive Officer approval.

v. Watershed Equivalence.

Regardless of the methods through which Permittees allow project applicants to implement alternative compliance measures, the subwatershed-wide (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) result of all development must be at least the same level of water quality protection as would have been achieved if all projects utilizing these alternative compliance provisions had complied with Part VI.D.7.c.i (Integrated Water Quality/Flow Reduction/Resource Management Criteria).

vi. Annual Report

Each Permittee shall provide in their annual report to the Regional Water Board a list of mitigation project descriptions and estimated pollutant and flow reduction analyses (compiled from design specifications submitted by project

applicants and approved by the Permittee(s)). Within 4 years of Order adoption, Permittees must submit in their Annual Report, a comparison of the expected aggregate results of alternative compliance projects to the results that would otherwise have been achieved by retaining on site the SWQDv.

d. Implementation

i. Local Ordinance Equivalence

A Permittee that has adopted a local LID ordinance prior to the adoption of this Order, and which includes a retention requirement numerically equal to the 0.75-inch, 24-hour rain event or the 85th percentile, 24-hour rain event, whichever is greater, may submit documentation to the Regional Water Board that the alternative requirements in the local ordinance will provide equal or greater reduction in storm water discharge pollutant loading and volume as would have been obtained through strict conformance with Part VI.D.7.c.i. (Integrated Water Quality/Flow Reduction Resources Management Criteria) or Part VI.D.7.c.ii. (Alternative Compliance Measures for Technical Infeasibility or Opportunity for Regional Ground water Replenishment) of this Order and, if applicable, Part VI.D.7.c.iv. (Hydromodification (Flow/Volume Duration) Control Criteria).

- (1) Documentation shall be submitted within 180 days after the effective date of this Order.
- (2) The Regional Water Board shall provide public notice of the proposed equivalency determination and a minimum 30-day period for public comment. After review and consideration of public comments, the Regional Water Board Executive Officer will determine whether implementation of the local ordinance provides equivalent pollutant control to the applicable provisions of this Order. Local ordinances that do not strictly conform to the provisions of this Order must be approved by the Regional Water Board Executive Officer as being "equivalent" in effect to the applicable provisions of this Order in order to substitute for the requirements in Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv.
- (3) Where the Regional Water Board Executive Officer determines that a Permittee's local LID ordinance does not provide equivalent pollutant control, the Permittee shall either
 - (a) Require conformance with Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv, or
 - (b) Update its local ordinance to conform to the requirements herein within two years of the effective date of this Order.

ii. Project Coordination

- (1) Each Permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:
 - (a) Detailed LID site design and BMP review including BMP sizing calculations, BMP pollutant removal performance, and municipal approval; and

- (b) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding or an equivalent agreement.

iii. Maintenance Agreement and Transfer

- (1) Prior to issuing approval for final occupancy, each Permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements, with the exception of simple LID BMPs implemented on single family residences, provide an operation and maintenance plan, monitoring plan, where required, and verification of ongoing maintenance provisions for LID practices, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/or other legally binding maintenance agreements. Permittees shall require maintenance records be kept on site for treatment BMPs implemented on single family residences.
 - (a) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either:
 - (i) A signed statement from the public entity assuming responsibility for BMP maintenance; or
 - (ii) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or
 - (iii) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association; or
 - (iv) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.
 - (b) Each Permittee shall require all development projects subject to post-construction BMP requirements to provide a plan for the operation and maintenance of all structural and treatment controls. The plan shall be submitted for examination of relevance to keeping the BMPs in proper working order. Where BMPs are transferred to Permittee for ownership and maintenance, the plan shall also include all relevant costs for upkeep of BMPs in the transfer. Operation and Maintenance plans for private BMPs shall be kept on-site for periodic review by Permittee inspectors.

iv. Tracking, Inspection, and Enforcement of Post-Construction BMPs

- (1) Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date.
 - (a) Implement a GIS or other electronic system for tracking projects that have been conditioned for post-construction BMPs. The electronic system, at a minimum, should contain the following information:
 - (i) Municipal Project ID
 - (ii) State WDID No.
 - (iii) Project Acreage
 - (iv) BMP Type and Description
 - (v) BMP Location (coordinates)
 - (vi) Date of Acceptance
 - (vii) Date of Maintenance Agreement
 - (viii) Maintenance Records
 - (ix) Inspection Date and Summary
 - (x) Corrective Action
 - (xi) Date Certificate of Occupancy Issued
 - (xii) Replacement or Repair Date
 - (b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.
 - (c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment and operated by the Permittee. The post-construction BMP maintenance inspection program shall incorporate the following elements:
 - (i) The development of a Post-construction BMP Maintenance Inspection checklist
 - (ii) Inspection at least once every 2 years after project completion, of post-construction BMPs to assess operation conditions with particular attention to criteria and procedures for post-construction

treatment control and hydromodification control BMP repair, replacement, or re-vegetation.

(d) For post-construction BMPs operated and maintained by parties other than the Permittee, the Permittee shall require the other parties to document proper maintenance and operations.

(e) Undertake enforcement action per the established Progressive Enforcement Policy as appropriate based on the results of the inspection. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

8. Development Construction Program

a. Each Permittee shall develop, implement, and enforce a construction program that:

- i. Prevents illicit construction-related discharges of pollutants into the MS4 and receiving waters.
- ii. Implements and maintains structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites.
- iii. Reduces construction site discharges of pollutants to the MS4 to the MEP.
- iv. Prevents construction site discharges to the MS4 from causing or contributing to a violation of water quality standards.

b. Each Permittee shall establish for its jurisdiction an enforceable erosion and sediment control ordinance for all construction sites that disturb soil.

c. Applicability

The provisions contained in Part VI.D.8.d below apply exclusively to construction sites less than 1 acre. Provisions contained in Part VI.D.8.e – j, apply exclusively to construction sites 1 acre or greater. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).

d. Requirements for Construction Sites Less than One Acre

i. For construction sites less than 1 acre, each Permittee shall:

- (1) Through the use of the Permittee's erosion and sediment control ordinance or and/or building permit, require the implementation of an effective combination of erosion and sediment control BMPs from Table 12 to prevent erosion and sediment loss, and the discharge of construction wastes.

Table 12. Applicable Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

- (2) Possess the ability to identify all construction sites with soil disturbing activities that require a permit, regardless of size, and shall be able to provide a list of permitted sites upon request of the Regional Water Board. Permittees may use existing permit databases or other tracking systems to comply with these requirements.
 - (3) Inspect construction sites on as needed based on the evaluation of the factors that are a threat to water quality. In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.
 - (4) Implement the Permittee's Progressive Enforcement Policy to ensure that construction sites are brought into compliance with the erosion and sediment control ordinance within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.
- e. Each Permittee shall require operators of public and private construction sites within its jurisdiction to select, install, implement, and maintain BMPs that comply with its erosion and sediment control ordinance.
 - f. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).
 - g. Construction Site Inventory / Electronic Tracking System**

- i. Each Permittee shall use an electronic system to inventory grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by the Permittee. To satisfy this requirement, the use of a database or GIS system is recommended.
- ii. Each Permittee shall complete an inventory and continuously update as new sites are permitted and sites are completed. The inventory / tracking system shall contain, at a minimum:
 - (1) Relevant contact information for each project (e.g., name, address, phone, email, etc. for the owner and contractor.
 - (2) The basic site information including location, status, size of the project and area of disturbance.
 - (3) The proximity all water bodies, water bodies listed as impaired by sediment-related pollutants, and water bodies for which a sediment-related TMDL has been adopted and approved by USEPA.
 - (4) Significant threat to water quality status, based on consideration of factors listed in Appendix 1 to the Statewide General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit).
 - (5) Current construction phase where feasible.
 - (6) The required inspection frequency.
 - (7) The project start date and anticipated completion date.
 - (8) Whether the project has submitted a Notice of Intent and obtained coverage under the Construction General Permit.
 - (9) The date the Permittee approved the Erosion and Sediment Control Plan (ESCP).
 - (10) Post-Construction Structural BMPs subject to Operation and Maintenance Requirements.

h. Construction Plan Review and Approval Procedures

- i. Each Permittee shall develop procedures to review and approve relevant construction plan documents.
- ii. The review procedures shall be developed and implemented such that the following minimum requirements are met:
 - (1) Prior to issuing a grading or building permit, each Permittee shall require each operator of a construction activity within its jurisdiction to prepare and submit an ESCP prior to the disturbance of land for the Permittee's review and written approval. The construction site operator shall be prohibited from commencing construction activity prior to receipt of written approval by the Permittee. Each Permittee shall not approve any ESCP unless it contains appropriate site-specific construction site BMPs that

meet the minimum requirements of a Permittee's erosion and sediment control ordinance.

- (2) ESCPs must include the elements of a Storm Water Pollution Prevention Plan (SWPPP). SWPPPs prepared in accordance with the requirements of the Construction General Permit can be accepted as ESCPs.
- (3) At a minimum, the ESCP must address the following elements:
 - (a) Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside of the disturbed area.
 - (b) Methods used to protect native vegetation and trees.
 - (c) Sediment/Erosion Control.
 - (d) Controls to prevent tracking on and off the site.
 - (e) Non-storm water controls (e.g., vehicle washing, dewatering, etc.).
 - (f) Materials Management (delivery and storage).
 - (g) Spill Prevention and Control.
 - (h) Waste Management (e.g., concrete washout/waste management; sanitary waste management).
 - (i) Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
- (4) The ESCP must include the rationale for the selection and design of the proposed BMPs, including quantifying the expected soil loss from different BMPs.
- (5) Each Permittee shall require that the ESCP is developed and certified by a Qualified SWPPP Developer (QSD).
- (6) Each Permittee shall require that all structural BMPs be designed by a licensed California Engineer.
- (7) Each Permittee shall require that for all sites, the landowner or the landowner's agent sign a statement on the ESCP as follows:
 - (a) "I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/ or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/ or adequately implement the ESCP may result in revocation of grading and/ or other permits or other sanctions provided by law."
- (8) Prior to issuing a grading or building permit, each Permittee must verify that the construction site operators have existing coverage under

applicable permits, including, but not limited to the State Water Board's Construction General Permit, and State Water Board 401 Water Quality Certification.

- (9) Each Permittee shall develop and implement a checklist to be used to conduct and document review of each ESCP.

i. BMP Implementation Level

- i. Each Permittee shall implement technical standards for the selection, installation and maintenance of construction BMPs for all construction sites within its jurisdiction.
- ii. The BMP technical standards shall require:
- (1) The use of BMPs that are tailored to the risks posed by the project. Sites are to be ranked from Low Risk (Risk 1) to High Risk (Risk 3). Project risks are to be calculated based on the potential for erosion from the site and the sensitivity of the receiving water body. Receiving water bodies that are listed on the Clean Water Act (CWA) Section 303(d) list for sediment or siltation are considered High Risk. Likewise, water bodies with designated beneficial uses of SPWN, COLD, and MIGR are also considered to be High Risk. The combined (sediment/receiving water) site risk shall be calculated using the methods provided in Appendix 1 of the Construction General Permit. At a minimum, the BMP technical standards shall include requirements for High Risk sites as defined in Table 15.
 - (2) The use of BMPs for all construction sites, sites equal or greater to 1 acre, and for paving projects per Tables 14 and 16 of this Order.
 - (3) Detailed installation designs and cut sheets for use within ESCPs.
 - (4) Maintenance expectations for each BMP, or category of BMPs, as appropriate.
- iii. Permittees are encouraged to adopt respective BMPs from latest versions of the *California BMP Handbook, Construction* or *Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual* and addenda. Alternatively, Permittees are authorized to develop or adopt equivalent BMP standards consistent for Southern California and for the range of activities presented below in Tables 13 through 16.
- iv. The local BMP technical standards shall be readily available to the development community and shall be clearly referenced within each Permittee's storm water or development services website, ordinance, permit approval process and/or ESCP review forms. The local BMP technical standards shall also be readily available to the Regional Water Board upon request.
- v. Local BMP technical standards shall be available for the following:

Table 13. Minimum Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm Management	water Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

Table 14. Additional BMPs Applicable to Construction Sites Disturbing 1 Acre or More

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
Sediment Controls	Fiber Rolls
	Gravel Bag Berm
	Street Sweeping and/ or Vacuum
	Storm Drain Inlet Protection
	Scheduling
	Check Dam
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/ Exit
	Stabilized Construction Roadway
	Entrance/ Exit Tire Wash
Non-Storm Management	water Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Spill Prevention and Control

Table 15. Additional Enhanced BMPs for High Risk Sites

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch

	Geotextiles and Mats
	Wood Mulching
	Slope Drains
Sediment Controls	Silt Fence
	Fiber Rolls
	Sediment Basin
	Check Dam
	Gravel Bag Berm
	Street Sweeping and/or Vacuum
	Sand Bag Barrier
	Storm Drain Inlet Protection
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/Exit
	Stabilized Construction Roadway
	Entrance/Exit Tire Wash
	Advanced Treatment Systems
Non-Storm water Management	Water Conservation Practices
	Dewatering Operations (Ground water dewatering only under NPDES Permit No. CAG994004)
	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management

* Applies to public roadway projects.

Table 16. Minimum Required BMPs for Roadway Paving or Repair Operation (For Private or Public Projects)

1.	Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions.
2.	Install gravel bags and filter fabric or other equivalent inlet protection at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat.
3.	Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or receiving waters.
4.	Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
5.	Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.
6.	Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.
7.	Collect solid waste by vacuuming or sweeping and securing in an

	appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
8.	Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
9.	Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
10.	Minimize airborne dust by using water spray or other approved dust suppressant during grinding.
11.	Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or receiving waters.
12.	Protect stockpiles with a cover or sediment barriers during a rain.

j. Construction Site Inspection

- i. Each Permittee shall use its legal authority to implement procedures for inspecting public and private construction sites.
- ii. The inspection procedures shall be implemented as follows:
 - (1) Inspect the public and private construction sites as specified in Table 17 below:

Table 17. Inspection Frequencies for Sites One Acre or Greater

Site	Inspection Frequency Shall Occur
a. All sites 1 acre or larger that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under the CWA § 303(d)	(1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA ²⁹ , (2) within 48 hours of a ½-inch rain event and at (3) least once every two weeks
b. Other sites 1 acre or more determined to be a significant threat to water quality ³⁰	
c. All other construction sites with 1 acre or more of soil disturbance not meeting the criteria above	At least monthly

- (2) Each Permittee shall inspect all phases of construction as follows:

(a) Prior to Land Disturbance

Prior to allowing an operator to commence land disturbance, each Permittee shall perform an inspection to ensure all necessary erosion

²⁹ www.srh.noaa.gov/forecast

³⁰ In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.

and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan.

- (b) During Active Construction, including Land Development³¹ and Vertical Construction³²

In accordance with the frequencies specified in Part VI.D.8.j and Table 17 of this Order, each Permittee shall perform an inspection to ensure all necessary erosion and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan throughout the construction process.

- (c) Final Landscaping / Site Stabilization³³

At the conclusion of the project and as a condition of approving and/or issuing a Certificate of Occupancy, each Permittee shall inspect the constructed site to ensure that all graded areas have reached final stabilization and that all trash, debris, and construction materials, and temporary erosion and sediment BMPs are removed.

- (3) Based on the required frequencies above, each construction project shall be inspected a minimum of three times.

- (4) Inspection Standard Operating Procedures

Each Permittee shall develop, implement, and revise as necessary, standard operating procedures that identify the inspection procedures each Permittee will follow. Inspections of construction sites, and the standard operating procedures, shall include, but are not limited to:

- (a) Verification of active coverage under the Construction General Permit for sites disturbing 1 acre or more, or that are part of a planned development that will disturb 1 acre or more and a process for referring non-filers to the Regional Water Board.
- (b) Review of the applicable ESCP and inspection of the construction site to determine whether all BMPs have been selected, installed, implemented, and maintained according to the approved plan and subsequent approved revisions.
- (c) Assessment of the appropriateness of the planned and installed BMPs and their effectiveness.
- (d) Visual observation and record keeping of non-storm water discharges, potential illicit discharges and connections, and potential discharge of pollutants in storm water runoff.
- (e) Development of a written or electronic inspection report generated from an inspection checklist used in the field.

³¹ Activities include cuts and fills, rough and finished grading; alluvium removals; canyon cleanouts; rock undercuts; keyway excavations; stockpiling of select material for capping operations; and excavation and street paving, lot grading, curbs, gutters and sidewalks, public utilities, public water facilities including fire hydrants, public sanitary sewer systems, storm sewer system and/or other drainage improvement.

³² The build out of structures from foundations to roofing, including rough landscaping.

³³ All soil disturbing activities at each individual parcel within the site have been completed.

- (f) Tracking of the number of inspections for the inventoried construction sites throughout the reporting period to verify that the sites are inspected at the minimum frequencies required in Table 17 of this Order.

k. Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that construction sites are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

l. Permittee Staff Training

- i. Each Permittee shall ensure that all staff whose primary job duties are related to implementing the construction storm water program are adequately trained.
- ii. Each Permittee may conduct in-house training or contract with consultants. Training shall be provided to the following staff positions of the MS4:

(1) Plan Reviewers and Permitting Staff

Ensure staff and consultants are trained as qualified individuals, knowledgeable in the technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program. Permittees may provide internal training to staff or require staff to obtain QSD certification.

(2) Erosion Sediment Control/Storm Water Inspectors

Each Permittee shall ensure that its inspectors are knowledgeable in inspection procedures consistent with the State Water Board sponsored program QSD or a Qualified SWPPP Practitioner (QSP) or that a designated person on staff who has been trained in the key objectives of the QSD/QSP programs supervises inspection operations. Each Permittee may provide internal training to staff or require staff to obtain QSD/QSP certification. Each inspector must be knowledgeable of the local BMP technical standards and ESCP requirements.

(3) Third-Party Plan Reviewers, Permitting Staff, and Inspectors

If the Permittee utilizes outside parties to conduct inspections and/or review plans, each Permittee shall ensure these staff are trained per the requirements listed above. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

9. Public Agency Activities Program

- a. Each Permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from Permittee-owned or operated facilities and activities and to identify opportunities to reduce storm water pollution impacts

from areas of existing development. Requirements for Public Agency Facilities and Activities consist of the following components:

- i. Public Construction Activities Management
- ii. Public Facility Inventory
- iii. Inventory of Existing Development for Retrofitting Opportunities
- iv. Public Facility and Activity Management
- v. Vehicle and Equipment Wash Areas
- vi. Landscape, Park, and Recreational Facilities Management
- vii. Storm Drain Operation and Maintenance
- viii. Streets, Roads, and Parking Facilities Maintenance
- ix. Emergency Procedures
- x. Municipal Employee and Contractor Training

b. Public Construction Activities Management

- i. Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at Permittee-owned or operated (i.e., public or Permittee sponsored) construction projects that are categorized under the project types identified in Part VI.D.7.b of this Order.
- ii. Each Permittee shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at Permittee-owned or operated construction projects as applicable.
- iii. For Permittee-owned or operated projects (including those under a capital improvement project plan) that disturb less than one acre of soil, each Permittee shall require an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program, minimum BMPs).
- iv. Each Permittee shall obtain separate coverage under the Construction General Permit for all Permittee-owned or operated construction sites that require coverage.

c. Public Facility Inventory

- i. Each Permittee shall maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:
 - (1) Animal control facilities
 - (2) Chemical storage facilities

- (3) Composting facilities
 - (4) Equipment storage and maintenance facilities (including landscape maintenance-related operations)
 - (5) Fueling or fuel storage facilities (including municipal airports)
 - (6) Hazardous waste disposal facilities
 - (7) Hazardous waste handling and transfer facilities
 - (8) Incinerators
 - (9) Landfills
 - (10) Materials storage yards
 - (11) Pesticide storage facilities
 - (12) Fire stations
 - (13) Public restrooms
 - (14) Public parking lots
 - (15) Public golf courses
 - (16) Public swimming pools
 - (17) Public parks
 - (18) Public works yards
 - (19) Public marinas
 - (20) Recycling facilities
 - (21) Solid waste handling and transfer facilities
 - (22) Vehicle storage and maintenance yards
 - (23) Storm water management facilities (e.g., detention basins)
 - (24) All other Permittee-owned or operated facilities or activities that each Permittee determines may contribute a substantial pollutant load to the MS4.
- ii. Each Permittee shall include the following minimum fields of information for each Permittee-owned or operated facility in its inventory.
- (1) Name of facility
 - (2) Name of facility manager and contact information
 - (3) Address of facility (physical and mailing)
 - (4) A narrative description of activities performed and potential pollution sources.
 - (5) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

- iii. Each Permittee shall update its inventory at least once during the 5-year term of the Order. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g., property management, land-use approvals, accounting and depreciation ledger account, and similar information).

d. Inventory of Existing Development for Retrofitting Opportunities

- i. Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.9.d. Retrofit opportunities shall be identified within the public right-of-way or in coordination with a TMDL implementation plan(s). The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards as defined in Part V.A, Receiving Water Limitations.
- ii. Each Permittee shall screen existing areas of development to identify candidate areas for retrofitting using watershed models or other screening level tools.
- iii. Each Permittee shall evaluate and rank the areas of existing development identified in the screening to prioritize retrofitting candidates. Criteria for evaluation may include but are not limited to:
 - (1) Feasibility, including general private and public land availability;
 - (2) Cost effectiveness;
 - (3) Pollutant removal effectiveness;
 - (4) Tributary area potentially treated;
 - (5) Maintenance requirements;
 - (6) Landowner cooperation;
 - (7) Neighborhood acceptance;
 - (8) Aesthetic qualities;
 - (9) Efficacy at addressing concern; and
 - (10) Potential improvements to public health and safety.
- iv. Each Permittee shall consider the results of the evaluation in the following programs:
 - (1) The Permittee's storm water management program: Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs in a Permittee's SWMP.

- (2) Off-site mitigation for New Development and Redevelopment: Each Permittee shall consider high priority retrofit projects as candidates for off-site mitigation projects per Part VI.D.7.c.iii.(4).(d).
 - (3) Where feasible, at the discretion of the Permittee, the existing development retrofitting program may be coordinated with flood control projects and other infrastructure improvement programs per Part VI.D.9.e.ii.(2) below.
- v. Each Permittee shall cooperate with private landowners to encourage site specific retrofitting projects. Each Permittee shall consider the following practices in cooperating with private landowners to retrofit existing development:
- (1) Demonstration retrofit projects;
 - (2) Retrofits on public land and easements that treat runoff from private developments;
 - (3) Education and outreach;
 - (4) Subsidies for retrofit projects;
 - (5) Requiring retrofit projects as enforcement, mitigation or ordinance compliance;
 - (6) Public and private partnerships;
 - (7) Fees for existing discharges to the MS4 and reduction of fees for retrofit implementation.

e. Public Agency Facility and Activity Management

- i. Each Permittee shall obtain separate coverage under the Industrial General Permit for all Permittee-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.
- ii. Each Permittee shall implement the following measures for Permittee- owned and operated flood management projects:
 - (1) Develop procedures to assess the impacts of flood management projects on the water quality of receiving water bodies; and
 - (2) Evaluate existing structural flood control facilities to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.
- iii. Each Permittee shall ensure the implementation and maintenance of activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs when such activities occur at Permittee-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.

- iv. Any contractors hired by the Permittee to conduct Public Agency Activities including, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair shall be contractually required to implement and maintain the activity specific BMPs listed in Table 18. Each Permittee shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.
- v. Permittee-owned or operated facilities that have obtained coverage under the Industrial General Permit shall implement and maintain BMPs consistent with the associated SWPPP and are therefore not required to implement and maintain the activity specific BMPs listed in Table 18.
- vi. Effective source control BMPs for the activities listed in Table 18 shall be implemented at Permittee-owned or operated facilities, unless the pollutant generating activity does not occur. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL provisions in Part VI.E., or a CWA § 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

Table 18. BMPs for Public Agency Facilities and Activities

General and Activity Specific BMPs		
General BMPs	Scheduling and Planning	
	Spill Prevention and Control	
	Sanitary/Septic Waste Management	
	Material Use	
	Safer Alternative Products	
	Vehicle/Equipment Cleaning, Fueling and Maintenance	
	Illicit Connection Detection, Reporting and Removal	
	Illegal Spill Discharge Control	
	Maintenance Facility Housekeeping Practices	
Flexible Pavement	Asphalt Cement Crack and Joint Grinding/ Sealing	
	Asphalt Paving	
	Structural Pavement Failure (Digouts) Pavement Grinding and Paving	
	Emergency Pothole Repairs	
	Sealing Operations	
Rigid Pavement	Portland Cement Crack and Joint Sealing	
	Mudjacking and Drilling	
	Concrete Slab and Spall Repair	
Slope/ Vegetation	Drains/	
		Shoulder Grading
		Nonlandscaped Chemical Vegetation Control
	Nonlandscaped Mechanical Vegetation Control/	

General and Activity Specific BMPs	
	Mowing
	Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Fence Repair
	Drainage Ditch and Channel Maintenance
	Drain and Culvert Maintenance
	Curb and Sidewalk Repair
Litter/ Debris/ Graffiti	Sweeping Operations
	Litter and Debris Removal
	Emergency Response and Cleanup Practices
	Graffiti Removal
Landscaping	Chemical Vegetation Control
	Manual Vegetation Control
	Landscaped Mechanical Vegetation Control/ Mowing
	Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Irrigation Line Repairs
	Irrigation (Watering), Potable and Nonpotable
Environmental	Storm Drain Stenciling
	Roadside Slope Inspection
	Roadside Stabilization
	Stormwater Treatment Devices
	Traction Sand Trap Devices
Bridges	Welding and Grinding
	Sandblasting, Wet Blast with Sand Injection and Hydroblasting
	Painting
	Bridge Repairs
Other Structures	Pump Station Cleaning
	Tube and Tunnel Maintenance and Repair
	Tow Truck Operations
	Toll Booth Lane Scrubbing Operations
Electrical	Sawcutting for Loop Installation
Traffic Guidance	Thermoplastic Striping and Marking
	Paint Striping and Marking
	Raised/ Recessed Pavement Marker Application and Removal
	Sign Repair and Maintenance
	Median Barrier and Guard Rail Repair
	Emergency Vehicle Energy Attenuation Repair
Storm Maintenance	Minor Slides and Slipouts Cleanup/ Repair
Management and Support	Building and Grounds Maintenance
	Storage of Hazardous Materials (Working Stock)
	Material Storage Control (Hazardous Waste)

General and Activity Specific BMPs	
	Outdoor Storage of Raw Materials
	Vehicle and Equipment Fueling
	Vehicle and Equipment Cleaning
	Vehicle and Equipment Maintenance and Repair
	Aboveground and Underground Tank Leak and Spill Control

f. Vehicle and Equipment Washing

- i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) for all fixed vehicle and equipment washing; including fire fighting and emergency response vehicles.
- ii. Each Permittee shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:
 - (1) Self-contain, and haul off for disposal; or
 - (2) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.
- iii. Each Permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

g. Landscape, Park, and Recreational Facilities Management

- i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for all public right-of-ways, flood control facilities and open channels, lakes and reservoirs, and landscape, park, and recreational facilities and activities.
- ii. Each Permittee shall implement an IPM program that includes the following:
 - (1) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.
 - (2) Treatments are made with the goal of removing only the target organism.
 - (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.
 - (4) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.

- (5) Partner with other agencies and organizations to encourage the use of IPM.
- (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.
- (7) Policies, procedures, and ordinances shall include commitments and a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
 - (a) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
 - (b) Quantify pesticide use by staff and hired contractors.
 - (c) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

iii. Each Permittee shall implement the following requirements:

- (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
- (2) Ensure there is no application of pesticides or fertilizers (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA³⁴, (2) within 48 hours of a ½-inch rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides described in Part VI.D.9.g.iii.(1) above or pesticides which require water for activation.
- (3) Ensure that no banned or unregistered pesticides are stored or applied.
- (4) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
- (5) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
- (6) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.
 - (a) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
 - (b) Regularly inspect storage areas.

h. Storm Drain Operation and Maintenance

³⁴ www.srh.noaa.gov/forecast

- i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for storm drain operation and maintenance.
- ii. Ensure that all material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:
 - (1) Self-contain, and haul off for legal disposal; or
 - (2) Applied to the land without runoff; or
 - (3) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.
- iii. Catch Basin Cleaning
 - (1) In areas that are not subject to a trash TMDL, each Permittee shall determine priority areas and shall update its map or list of Catch Basins with their GPS coordinates and priority:
 - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.
 - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.
 - Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.The map or list shall contain the rationale or data to support priority designations.
 - (2) In areas that are not subject to a trash TMDL, each Permittee shall inspect catch basins according to the following schedule:
 - Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.
 - Priority B: A minimum of once during the wet season and once during the dry season every year.
 - Priority C: A minimum of once per year.Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, Permittees shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. Permittees shall maintain inspection and cleaning records for Regional Water Board review.
 - (3) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.
- iv. Trash Management at Public Events
 - (1) Each Permittee shall require the following measures for any event in the public right of way or wherever it is foreseeable that substantial quantities

of trash and litter may be generated, including events located in areas that are subject to a trash TMDL:

- (a) Proper management of trash and litter generated; and
- (b) Arrangement for temporary screens to be placed on catch basins; or
- (c) Provide clean out of catch basins, trash receptacles, and grounds in the event area within one business day subsequent to the event.

v. Trash Receptacles

- (1) Each Permittee shall ensure trash receptacles, or equivalent trash capturing devices, are covered in areas newly identified as high trash generation areas within its jurisdiction.
- (2) Each Permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.

vi. Catch Basin Labels and Open Channel Signage

- (1) Each Permittee shall label all storm drain inlets that they own with a legible "no dumping" message.
- (2) Each Permittee shall inspect the legibility of the stencil or label nearest each inlet prior to the wet season every year.
- (3) Each Permittee shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.
- (4) Each Permittee shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant water bodies.

vii. Additional Trash Management Practices

- (1) In areas that are not subject to a trash TMDL, each Permittee shall install trash excluders, or equivalent devices, on or in catch basins or outfalls to prevent the discharge of trash to the MS4 or receiving water no later than four years after the effective date of this Order in areas defined as Priority A (Part VI.D.9.h.iii.(1)) except at sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install BMPs. Alternatively, each Permittee may implement alternative or enhanced BMPs beyond the provisions of this Order (such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages or trash nets within the MS4) that provide substantially equivalent removal of trash. Each Permittee shall demonstrate that BMPs, which substituted for trash excluders, provide equivalent trash removal performance as excluders. When outfall trash capture is provided, revision of the schedule for inspection and cleanout of catch basins in Part VI.D.9.h.iii.(2) shall be reported in the next year's annual report.

viii. Storm Drain Maintenance

Each Permittee shall implement a program for Storm Drain Maintenance that includes the following:

- (1) Visual monitoring of Permittee-owned open channels and other drainage structures for trash and debris at least annually.
- (2) Removal of trash and debris from open channels a minimum of once per year before the wet season.
- (3) Elimination of the discharge of contaminants during MS4 maintenance and clean outs.
- (4) Proper disposal of debris and trash removed during storm drain maintenance.

ix. Infiltration from Sanitary Sewer to MS4/Preventive Maintenance

- (1) Each Permittee shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4.
- (2) Each Permittee that operates both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate infiltration of seepage from the sanitary sewers to the MS4s that must include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both. Implementation of a Sewer System Management Plan in accordance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, may be used to fulfill this requirement.
- (3) Each Permittee shall implement controls to limit infiltration of seepage from sanitary sewers to the MS4 where necessary. Such controls must include:
 - (a) Adequate plan checking for construction and new development;
 - (b) Incident response training for its municipal employees that identify sanitary sewer spills;
 - (c) Code enforcement inspections;
 - (d) MS4 maintenance and inspections;
 - (e) Interagency coordination with sewer agencies; and
 - (f) Proper education of its municipal staff and contractors conducting field operations on the MS4 or its municipal sanitary sewer (if applicable).

x. Permittee Owned Treatment Control BMPs

- (1) Each Permittee shall implement an inspection and maintenance program for all Permittee owned treatment control BMPs, including post-construction treatment control BMPs.

- (2) Each Permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
- (3) Any residual water³⁵ produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:
 - (a) Hauled away and legally disposed of; or
 - (b) Applied to the land without runoff; or
 - (c) Discharged to the sanitary sewer system (with permits or authorization); or
 - (d) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations for Dewatering Treatment BMPs), prior to discharge to the MS4.

Table 19. Discharge Limitations for Dewatering Treatment BMPs³⁶

Parameter	Units	Limitation
Total Suspended Solids	mg/L	100
Turbidity	NTU	50
Oil and Grease	mg/L	10

i. Streets, Roads, and Parking Facilities Maintenance

- i. Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:
 - Priority A: Streets and/or street segments that are designated as consistently generating the highest volumes of trash and/or debris.
 - Priority B: Streets and/or street segments that are designated as consistently generating moderate volumes of trash and/or debris.
 - Priority C: Streets and/or street segments that are designated as generating low volumes of trash and/or debris.
- ii. Each Permittee shall perform street sweeping of curbed streets according to the following schedule:
 - Priority A: Streets and/or street segments that are designated as Priority A shall be swept at least two times per month.
 - Priority B: Streets and/or street segments that are designated as Priority B shall be swept at least once per month.
 - Priority C: Streets and/or street segments that are designated as Priority C shall be swept as necessary but in no case less than once per year.

³⁵ See Attachment A.

³⁶ Technology based effluent limitations.

iii. Road Reconstruction

Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.

- (1) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall³⁷ unless required by emergency conditions.
- (2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;
- (3) Prevent the discharge of release agents including soybean oil, other oils, or diesel into the MS4 or receiving waters.
- (4) Prevent non-storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
- (5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.
- (6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.
- (7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
- (8) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
- (9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
- (10) Minimize airborne dust by using water spray during grinding.
- (11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near MS4 or receiving waters.
- (12) Protect stockpiles with a cover or sediment barriers during a rain.

iv. Parking Facilities Maintenance

- (1) Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

j. Emergency Procedures

- i. Each Permittee may conduct repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

³⁷ A probability of precipitation (POP) of 50% is required.

- (1) The Permittee shall abide by all other regulatory requirements, including notification to other agencies as appropriate.
- (2) Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality, no later than 30 business days after the situation of emergency has passed.
- (3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than one week) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

k. Municipal Employee and Contractor Training

i. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program, or shall ensure contractors performing privatized/contracted municipal services are appropriately trained to:

- (1) Promote a clear understanding of the potential for activities to pollute storm water.
- (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

ii. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

- (1) The potential for pesticide-related surface water toxicity.
- (2) Proper use, handling, and disposal of pesticides.
- (3) Least toxic methods of pest prevention and control, including IPM.
- (4) Reduction of pesticide use.

iii. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

10. Illicit Connections and Illicit Discharges Elimination Program

a. General

- i.** Each Permittee shall continue to implement an Illicit Connection and Illicit Discharge Elimination (IC/ID) Program to detect, investigate, and eliminate IC/IDs to the MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in this Order.
- ii.** As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.
- iii.** Each Permittee's IC/ID Program shall consist of at least the following major program components:
 - (1) Procedures for conducting source investigations for IC/IDs
 - (2) Procedures for eliminating the source of IC/IDs
 - (3) Procedures for public reporting of illicit discharges
 - (4) Spill response plan
 - (5) IC/IDs education and training for Permittee staff

b. Illicit Discharge Source Investigation and Elimination

- i.** Each Permittee shall develop written procedures for conducting investigations to identify the source of all suspected illicit discharges, including procedures to eliminate the discharge once the source is located.
- ii.** At a minimum, each Permittee shall initiate an investigation(s) to identify and locate the source within 72 hours of becoming aware of the illicit discharge.
- iii.** When conducting investigations, each Permittee shall comply with the following:
 - (1) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.
 - (2) Each Permittee shall track all investigations to document at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.
 - (3) Each Permittee shall investigate the source of all observed illicit discharges.
- iv.** When taking corrective action to eliminate illicit discharges, each Permittee shall comply with the following:
 - (1) If the source of the illicit discharge has been determined to originate within the Permittee's jurisdiction, the Permittee shall immediately notify the responsible party/parties of the problem, and require the responsible party to initiate all necessary corrective actions to eliminate the illicit discharge.

Upon being notified that the discharge has been eliminated, the Permittee shall conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned-up to the satisfaction of the Permittee(s). Each Permittee shall document its follow-up investigation. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.

- (2) If the source of the illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Regional Water Board within 30 days of such determination and provide all of the information collected regarding efforts to identify its source. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.
 - (3) If the source of the illicit discharge cannot be traced to a suspected responsible party, affected Permittees shall implement its spill response plan and then initiate a permanent solution as described in section 10.b.v below.
- v. In the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party/parties, the Permittee shall provide for diversion of the entire flow to the sanitary sewer or provide treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion.

c. Identification and Response to Illicit Connections

i. Investigation

Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

ii. Elimination

Each Permittee, upon confirmation of an illicit MS4 connection, shall ensure that the connection is:

- (1) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowed under this Order or other individual or general NPDES Permits/WDRs, or
- (2) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

iii. Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

d. Public Reporting of Non-Storm Water Discharges and Spills

- i. Each Permittee shall promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s through a central contact point, including phone numbers and an internet site for complaints and spill reporting. Each Permittee shall also provide the reporting hotline to Permittee staff to leverage the field staff that has direct contact with the MS4 in detecting and eliminating illicit discharges.
- ii. Each Permittee shall implement the central point of contact and reporting hotline requirements listed in this part in one or more of the following methods:
 - (1) By participating in a County-wide sponsored hotline
 - (2) By participating in one or more Watershed Group sponsored hotlines
 - (3) Or individually within its own jurisdiction
 - (4) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and internet site to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.
- iii. Each Permittee shall ensure that signage adjacent to open channels, as required in Part F.8.h.vi, include information regarding dumping prohibitions and public reporting of illicit discharges.
- iv. Each Permittee shall develop and maintain written procedures that document how complaint calls are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the Permittee. Any identified changes shall be made to the procedures subsequent to the evaluation.
- v. Each Permittee shall maintain documentation of the complaint calls and record the location of the reported spill or IC/ ID and the actions undertaken in response to all IC/ID complaints, including referrals to other agencies.

e. Spill Response Plan

- i. Each Permittee shall implement a spill response plan for all sewage and other spills that may discharge into its MS4. The spill response plan shall clearly identify agencies responsible for spill response and cleanup, telephone numbers and e-mail address for contacts, and shall contain at a minimum the following requirements:
 - (1) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.
 - (2) Initiate investigation of all public and employee spill complaints within one business day of receiving the complaint to assess validity.
 - (3) Response to spills for containment within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.
 - (4) Spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

f. Illicit Connection and Illicit Discharge Education and Training

- i. Each Permittee must continue to implement a training program regarding the identification of IC/IDs for all municipal field staff, who, as part of their normal job responsibilities (e.g., street sweeping, storm drain maintenance, collection system maintenance, road maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4. Contact information, including the procedure for reporting an illicit discharge, must be readily available to field staff. Training program documents must be available for review by the permitting authority.
 - ii. Each Permittee shall ensure contractors performing privatized/contracted municipal services such as, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair are trained regarding IC/ID identification and reporting. Permittees may provide training or include contractual requirements for IC/ID identification and reporting training. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.
 - iii. Each Permittee's training program should address, at a minimum, the following:
 - (1) IC/ID identification, including definitions and examples,
 - (2) investigation,
 - (3) elimination,
 - (4) cleanup,

- (5) reporting, and
- (6) documentation.
- iv. Each Permittee must create a list of applicable positions and contractors which require IC/ID training and ensure that training is provided at least twice during the term of the Order. Each Permittee must maintain documentation of the training activities.
- v. New Permittee staff members must be provided with IC/ID training within 180 days of starting employment.

E. Total Maximum Daily Load Provisions

1. The provisions of this Part VI.E. implement and are consistent with the assumptions and requirements of all waste load allocations (WLAs) established in TMDLs for which some or all of the Permittees in this Order are responsible.
 - a. Part VI.E of this Order includes provisions that are designed to assure that Permittees achieve WLAs and meet other requirements of TMDLs covering receiving waters impacted by the Permittees' MS4 discharges. TMDL provisions are grouped by WMA (WMA) in Attachments L through R.
 - b. The Permittees subject to each TMDL are identified in Attachment K.
 - c. The Permittees shall comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR §122.44(d)(1)(vii)(B); Cal. Wat. Code §13263(a)).
 - d. A Permittee may comply with water quality-based effluent limitations and receiving water limitations in Attachments L through R using any lawful means.

2. Compliance Determination

a. General

- i. A Permittee shall demonstrate compliance at compliance monitoring points established in each TMDL or, if not specified in the TMDL, at locations identified in an approved TMDL monitoring plan or in accordance with an approved integrated monitoring program per Attachment E, Part VI.C.5 (Integrated Watershed Monitoring and Assessment).
- ii. Compliance with water quality-based effluent limitations shall be determined as described in Parts VI.E.2.d and VI.E.2.e, or for trash water quality-based effluent limitations as described in Part VI.E.5.b, or as otherwise set forth in TMDL specific provisions in Attachments L through R.

- iii. Pursuant to Part VI.C, a Permittee may, individually or as part of a watershed-based group, develop and submit for approval by the Regional Water Board Executive Officer a Watershed Management Program that addresses all water quality-based effluent limitations and receiving water limitations to which the Permittee is subject pursuant to established TMDLs.

b. Commingled Discharges

- i. A number of the TMDLs establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL.
- ii. In these cases, pursuant to 40 CFR section 122.26(a)(3)(vi), each Permittee is only responsible for discharges from the MS4 for which they are owners and/or operators.
- iii. Where Permittees have commingled discharges to the receiving water, compliance at the outfall to the receiving water or in the receiving water shall be determined for the group of Permittees as a whole unless an individual Permittee demonstrates that its discharge did not cause or contribute to the exceedance, pursuant to subpart v. below.
- iv. For purposes of compliance determination, each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation(s) at the outfall or receiving water limitation(s) in the target receiving water.
- v. A Permittee may demonstrate that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation or receiving water limitation in any of the following ways:
 - (1) Demonstrate that there is no discharge from the Permittee's MS4 into the applicable receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation; or
 - (2) Demonstrate that the discharge from the Permittee's MS4 is controlled to a level that does not exceed the applicable water quality-based effluent limitation; or
 - (3) For exceedances of bacteria receiving water limitations or water quality-based effluent limitations, demonstrate through a source investigation pursuant to protocols established under California Water Code section 13178 or for exceedances of other receiving water limitations or water quality-based effluent limitations, demonstrate using other accepted source identification protocols, that pollutant sources within the jurisdiction of the Permittee or the Permittee's MS4 have not caused or contributed to the exceedance of the Receiving Water Limitation(s).

c. Receiving Water Limitations Addressed by a TMDL

- i. For receiving water limitations in Part V.A. associated with water body-pollutant combinations addressed in a TMDL, Permittees shall achieve compliance with the receiving water limitations in Part V.A. as outlined in this Part VI.E. and Attachments L through R of this Order.
- ii. A Permittee's full compliance with the applicable TMDL requirement(s), including compliance schedules, of this Part VI.E. and Attachments L through R constitutes compliance with Part V.A. of this Order for the specific pollutant addressed in the TMDL.
- iii. As long as a Permittee is in compliance with the applicable TMDL requirements in a time schedule order (TSO) issued by the Regional Water Board pursuant to California Water Code sections 13300 and 13385(j)(3), it is not the Regional Water Board's intention to take an enforcement action for violations of Part V.A. of this Order for the specific pollutant(s) addressed in the TSO.

d. Interim Water Quality-Based Effluent Limitations and Receiving Water Limitations

- i. A Permittee shall be considered in compliance with an applicable interim water quality-based effluent limitation and interim receiving water limitation for a pollutant associated with a specific TMDL if any of the following is demonstrated:
 - (1) There are no violations of the interim water quality-based effluent limitation for the pollutant associated with a specific TMDL at the Permittee's applicable MS4 outfall(s),³⁸ including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;
 - (2) There are no exceedances of the applicable receiving water limitation for the pollutant associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);
 - (3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant associated with a specific TMDL; or
 - (4) The Permittee has submitted and is fully implementing an approved Watershed Management Program or EWMP pursuant to Part VI.C.
 - (a) To be considered fully implementing an approved Watershed Management Program or EWMP, a Permittee must be implementing

³⁸ An outfall may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.

all actions consistent with the approved program and applicable compliance schedules, including structural BMPs.

- (b) Structural storm water BMPs or systems of BMPs should be designed and maintained to treat storm water runoff from the 85th percentile, 24-hour storm, where feasible and necessary to achieve applicable WQBELs and receiving water limitations, and maintenance records must be up-to-date and available for inspection by the Regional Water Board.
- (c) A Permittee that does not implement the Watershed Management Program in accordance with the milestones and compliance schedules shall demonstrate compliance with its interim water quality-based effluent limitations and/or receiving water limitations pursuant to Part VI.E.2.d.i.(1)-(3), above.
- (d) Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with provisions pertaining to interim WQBELs with compliance deadlines occurring prior to approval of a WMP or EWMP. This subdivision (d) shall not apply to interim trash WQBELs.
 - (1) Provides timely notice of its intent to develop a WMP or EWMP,
 - (2) Meets all interim and final deadlines for development of a WMP or EWMP,
 - (3) For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to the impairment(s) addressed by the TMDL(s), and
 - (4) Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

e. Final Water Quality-based Effluent Limitations and/or Receiving Water Limitations

- i. A Permittee shall be deemed in compliance with an applicable final water quality-based effluent limitation and final receiving water limitation for the pollutant(s) associated with a specific TMDL if any of the following is demonstrated:

- (1) There are no violations of the final water quality-based effluent limitation for the specific pollutant at the Permittee's applicable MS4 outfall(s)³⁹;
- (2) There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s);
- (3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or
- (4) In drainage areas where Permittees are implementing an EWMP, (i) all non-storm water and (ii) all storm water runoff up to and including the volume equivalent to the 85th percentile, 24-hour event is retained for the drainage area tributary to the applicable receiving water. This provision (4) shall not apply to final trash WQBELs.

3. USEPA Established TMDLs

TMDLs established by the USEPA, to which Permittees are subject, do not contain an implementation plan adopted pursuant to California Water Code section 13242. However, USEPA has included implementation recommendations as part of these TMDLs. In lieu of inclusion of numeric water quality based effluent limitations at this time, this Order requires Permittees subject to WLAs in USEPA established TMDLs to propose and implement best management practices (BMPs) that will be effective in achieving compliance with USEPA established numeric WLAs. The Regional Water Board may, at its discretion, revisit this decision within the term of this Order or in a future permit, as more information is developed to support the inclusion of numeric water quality based effluent limitations.

- a. Each Permittee shall propose BMPs to achieve the WLAs contained in the applicable USEPA established TMDL(s), and a schedule for implementing the BMPs that is as short as possible, in a Watershed Management Program or EWMP.
- b. Each Permittee may either individually submit a Watershed Management Program, or may jointly submit a WMP or EWMP with other Permittees subject to the WLAs contained in the USEPA established TMDL.
- c. At a minimum, each Permittee shall include the following information in its Watershed Management Program or EWMP, relevant to each applicable USEPA established TMDL:
 - i. Available data demonstrating the current quality of the Permittee's MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

³⁹ Ibid.

- ii. A detailed description of BMPs that have been implemented, and/or are currently being implemented by the Permittee to achieve the WLA(s), if any;
 - iii. A detailed time schedule of specific actions the Permittee will take in order to achieve compliance with the applicable WLA(s);
 - iv. A demonstration that the time schedule requested is as short as possible, taking into account the time since USEPA establishment of the TMDL, and technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the WLA(s);
 - (1) For the Malibu Creek Nutrient TMDL established by USEPA in 2003, in no case shall the time schedule to achieve the final numeric WLAs exceed five years from the effective date of this Order; and
 - v. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and numeric milestones and the date(s) for their achievement.
- d. Each Permittee subject to a WLA in a TMDL established by USEPA shall submit a draft of a Watershed Management Program or EWMP to the Regional Water Board Executive Officer for approval per the schedule Part VI.C.4.
 - e. If a Permittee does not submit a Watershed Management Program, or the plan is determined to be inadequate by the Regional Water Board Executive Officer and the Permittee does not make the necessary revisions within 90 days of written notification that plan is inadequate, the Permittee shall be required to demonstrate compliance with the numeric WLAs immediately based on monitoring data collected under the MRP (Attachment E) for this Order.

4. State Adopted TMDLs where Final Compliance Deadlines have Passed

- a. Permittees shall comply immediately with water quality-based effluent limitations and/or receiving water limitations to implement WLAs in state-adopted TMDLs for which final compliance deadlines have passed pursuant to the TMDL implementation schedule.
- b. Where a Permittee believes that additional time to comply with the final water quality-based effluent limitations and/or receiving water limitations is necessary, a Permittee may within 45 days of Order adoption request a time schedule order pursuant to California Water Code section 13300 for the Regional Water Board's consideration.
- c. Permittees may either individually request a TSO, or may jointly request a TSO with all Permittees subject to the water quality-based effluent limitations and/or receiving water limitations, to implement the WLAs in the state-adopted TMDL.

- d. At a minimum, a request for a time schedule order shall include the following:
- i. Data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;
 - ii. A detailed description and chronology of structural controls and source control efforts, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;
 - iii. Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations;
 - iv. A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations;
 - v. A demonstration that the time schedule requested is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and
 - vi. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:
 - (1) Effluent limitation(s) for the pollutant(s) of concern; and
 - (2) Actions and milestones leading to compliance with the effluent limitation(s).

5. Water Quality-Based Effluent Limitations for Trash

Permittees assigned a Waste Load Allocation in a trash TMDL shall comply as set forth below.

- a. **Effluent Limitations:** Permittees shall comply with the interim and final water quality-based effluent limitations for trash set forth in Attachments L through R for the following Trash TMDLs:
- i. Lake Elizabeth Trash TMDL (Attachment L)
 - ii. Santa Monica Bay Nearshore and Offshore Debris TMDL (Attachment M)
 - iii. Malibu Creek Watershed Trash TMDL (Attachment M)
 - iv. Ballona Creek Trash TMDL (Attachment M)
 - v. Machado Lake Trash TMDL (Attachment N)
 - vi. Los Angeles River Trash TMDL (Attachment O)

- vii. Peck Road Park Lake Trash TMDL (Attachment O)
- viii. Echo Park Lake Trash TMDL (Attachment O)
- ix. Legg Lake Trash TMDL (Attachment O)

b. Compliance

- i. Pursuant to California Water Code section 13360(a), Permittees may comply with the trash effluent limitations using any lawful means. Such compliance options are broadly classified as *full capture*, *partial capture*, *institutional controls*, or *minimum frequency of assessment and collection*, as described below, and any combination of these may be employed to achieve compliance:

(1) Full Capture Systems:

- (a) The Basin Plan authorizes the Regional Water Board Executive Officer to certify *full capture systems*, which are systems that meet the operating and performance requirements as described in this Order, and the procedures identified in "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System."⁴⁰
- (b) Permittees are authorized to comply with their effluent limitations through certified *full capture systems* provided the requirements of paragraph (c), immediately below, and any conditions in the certification, continue to be met.
- (c) Permittees may comply with their effluent limitations through progressive installation of *full capture systems* throughout their jurisdictional areas until all areas draining to Lake Elizabeth, Santa Monica Bay, Malibu Creek, Ballona Creek, Machado Lake, the Los Angeles River system, Legg Lake, Peck Road Park Lake, and/or Echo Park Lake are addressed. For purposes of this Order, attainment of the effluent limitations shall be conclusively presumed for any drainage area to Lake Elizabeth, Santa Monica Bay, Malibu Creek (and its tributaries), Ballona Creek (and its tributaries), Machado Lake, the Los Angeles River (and its tributaries), Legg Lake, Peck Road Park Lake, and/or Echo Park Lake where certified *full capture systems* treat all drainage from the area, provided that the *full capture systems* are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board.

⁴⁰ The Regional Water Board currently recognizes eight *full capture systems*. These are: Vortex Separation Systems (VSS) and seven other Executive Officer certified *full capture systems*, including specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; and a connector pipe screen device. See August 3, 2004 Los Angeles Regional Water Quality Control Board Memorandum titled "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System."

- (i) A Permittee shall be deemed in compliance with its final effluent limitation if it demonstrates that all drainage areas under its jurisdiction and/or authority are serviced by appropriate certified *full capture systems* as described in paragraph (1)(c).
 - (ii) A Permittee shall be deemed in compliance with its interim effluent limitations, where applicable:
 - 1. By demonstrating that *full capture systems* treat the percentage of drainage areas in the watershed that corresponds to the required trash abatement.
 - 2. Alternatively, a Permittee may propose a schedule for installation of *full capture systems* in areas under its jurisdiction and/or authority within a given watershed, targeting first the areas of greatest trash generation, for the Executive Officer's approval. The Executive Officer shall not approve any such schedule that does not result in timely compliance with the final effluent limitations, consistent with the established TMDL implementation schedule and applicable State policies. A Permittee shall be deemed in compliance with its interim effluent limitations provided it is fully in compliance with any such approved schedule.
- (2) Partial Capture Devices and Institutional Controls: Permittees may comply with their interim and final effluent limitations through the installation of *partial capture devices* and the application of *institutional controls*.⁴¹
- (a) Trash discharges from areas serviced solely by *partial capture devices* may be estimated based on demonstrated performance of the device(s) in the implementing area.⁴² That is, trash reduction is equivalent to the *partial capture devices'* trash removal efficiency multiplied by the percentage of drainage area serviced by the devices.
 - (b) Except as provided in subdivision (c), immediately below, trash discharges from areas addressed by *institutional controls* and/or *partial capture devices* (where site-specific performance data is not available) shall be calculated using a mass balance approach, based on the daily generation rate (DGR) for a representative area.⁴³ The DGR shall be determined from direct measurement of trash deposited in the drainage area during any thirty-day period between June 22nd and September 22nd exclusive of rain events⁴⁴, and shall be re-calculated every year thereafter unless a less frequent period for recalculation is approved by the Regional Water Board Executive Officer. The DGR

⁴¹ While interim effluent limitations may be complied with using *partial capture devices*, compliance with final effluent limitations cannot be achieved with the exclusive use of *partial capture devices*.

⁴² Performance shall be demonstrated under different conditions (e.g. low to high trash loading).

⁴³ The area(s) should be representative of the land uses and activities within the Permittees' authority and shall be approved by the Executive Officer prior to the 30-day collection period.

⁴⁴ Provided no special events are scheduled that may affect the representative nature of that collection period.

shall be calculated as the total amount of trash collected during this period divided by the length of the collection period.

$$\text{DGR} = (\text{Amount of trash collected during a 30-day collection period}^{45} / (30 \text{ days}))$$

The DGR for the applicable area under the Permittees' jurisdiction and/or authority shall be extrapolated from that of the representative drainage area(s). A mass balance equation shall be used to estimate the amount of trash discharged during a storm event.⁴⁶ The *Storm Event Trash Discharge* for a given rain event in the Permittee's drainage area shall be calculated by multiplying the number of days since the last street sweeping by the DGR and subtracting the amount of any trash recovered in the catch basins.⁴⁷ For each day of a storm event that generates precipitation greater than 0.25 inch, the Permittee shall calculate a *Storm Event Trash Discharge*.

$$\text{Storm Event Trash Discharge} = [(Days \text{ since last street sweeping} * DGR)] - [Amount \text{ of trash recovered from catch basins}]^{48}$$

The sum of the *Storm Event Trash Discharges* for the storm year shall be the Permittee's calculated annual trash discharge.

$$\text{Total Storm Year Trash Discharge} = \sum \text{Storm Event Trash Discharges from Drainage Area}$$

- (c) The Executive Officer may approve alternative compliance monitoring approaches for calculating total storm year trash discharge, upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the Permittee's MS4.

(3) Combined Compliance Approaches:

Permittees may comply with their interim and final effluent limitations through a combination of *full capture systems*, *partial capture devices*, and *institutional controls*. Where a Permittee relies on a combination of approaches, it shall demonstrate compliance with the interim and final effluent limitations as specified in (1)(c) in areas where *full capture systems* are installed and as specified in (2)(a) or (2)(b), as appropriate, in areas where *partial capture devices* and *institutional controls* are applied.

(4) Minimum Frequency of Assessment and Collection Approach:

If allowed in a trash TMDL and approved by the Executive Officer, a Permittee may alternatively comply with its final effluent limitations by

⁴⁵ Between June 22nd and September 22nd

⁴⁶ Amount of trash shall refer to the uncompressed volume (in gallons) or drip-dry weight (in pounds) of trash collected.

⁴⁷ Any negative values shall be considered to represent a zero discharge.

⁴⁸ When more than one storm event occurs prior to the next street sweeping the discharge shall be calculated from the date of the last assessment.

implementing a program for *minimum frequency of assessment and collection* (MFAC) in conjunction with BMPs. To the satisfaction of the Executive Officer, the MFAC/BMP program must meet the following criteria:

- (a) The MFAC/BMP Program includes an initial minimum frequency of trash assessment and collection and suite of structural and/or nonstructural BMPs. The MFAC/BMP program shall include collection and disposal of all trash found in the receiving water and shoreline. Permittees shall implement an initial suite of BMPs based on current trash management practices in land areas that are found to be sources of trash to the water body. The initial minimum frequency of trash assessment and collection shall be set as specified in the following TMDLs:
 - (i) Malibu Creek Watershed Trash TMDL
 - (ii) Machado Lake Trash TMDL
 - (iii) Legg Lake Trash TMDL
- (b) The MFAC/BMP Program includes reasonable assurances that it will be implemented by the responsible Permittees.
- (c) MFAC protocols may be based on SWAMP protocols for rapid trash assessment, or alternative protocols proposed by Permittees and approved by the Regional Water Board Executive Officer.
- (d) Implementation of the MFAC/BMP program should include a Health and Safety Program to protect personnel. The MFAC/BMP program shall not require Permittees to access and collect trash from areas where personnel are prohibited.
- (e) The Regional Water Board Executive Officer may approve or require a revised assessment and collection frequency and definition of the critical conditions under the MFAC:
 - (i) To prevent trash from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections;
 - (ii) To reflect the results of trash assessment and collection;
 - (iii) If the amount of trash collected does not show a decreasing trend, where necessary, such that a shorter interval between collections is warranted; or
 - (iv) If the amount of trash collected is decreasing such that a longer interval between collections is warranted.
- (f) At the end of the implementation period, a revised MFAC/BMP program may be required if the Regional Water Board Executive Officer determines that the amount of trash accumulating between

collections is causing nuisance or otherwise adversely affecting beneficial uses.

(g) With regard to (4)(e)(i), (4)(e)(ii), or (4)(e)(iii), above, the Regional Water Board Executive Officer is authorized to allow responsible Permittees to implement additional structural or non-structural BMPs in lieu of modifying the monitoring frequency.

ii. If a Permittee is not in compliance with its applicable interim and/or final effluent limitation as identified in Attachments L through R, then it shall be in violation of this Order.

(1) A Permittee relying on *partial capture devices* and/or *institutional controls* that has violated its interim and/or final effluent limitation(s) shall be presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inch during the applicable storm year, except those storm days on which it establishes that its cumulative Storm Event Trash Discharges has not exceeded the applicable effluent limitation.

(2) If a Permittee relying on *full capture systems* has failed to demonstrate that the *full capture systems* for any drainage area are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board, and that it is in compliance with any conditions of its certification, shall be presumed to have discharged trash in an amount that corresponds to the percentage of the baseline waste load allocation represented by the drainage area in question.

(a) A Permittee may overcome this presumption by demonstrating (using any of the methods authorized in Part VI.E.5.b) that the actual or calculated discharge for that drainage area is in compliance with the applicable interim or final effluent limitation.

iii. Each Permittee shall be held liable for violations of the effluent limitations assigned to their area. If a Permittee's compliance strategy includes *full* or *partial capture devices* and it chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity, it is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the Permittees. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate. Nothing in this subsection shall be construed as relieving a Permittee of any liability that the Permittee would otherwise have under this Order.

c. Monitoring and Reporting Requirements (pursuant to California Water Code section 13383)

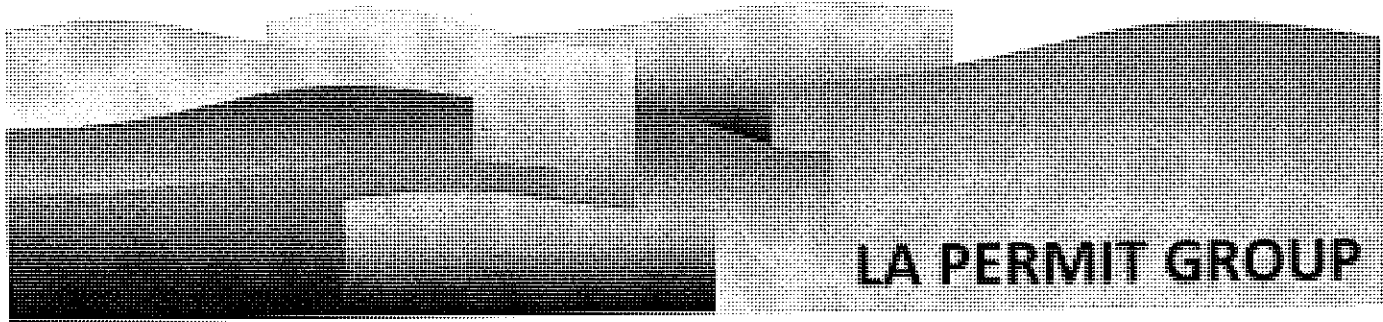
- i. Each Permittee shall submit a TMDL Compliance Report as part of its Annual Report detailing compliance with the applicable interim and/or final effluent limitations. Reporting shall include the information specified below. The report shall be submitted on the reporting form specified by the Regional Water Board Executive Officer. The report shall be signed under penalty of perjury by the Permittee's principal executive officer or ranking elected official or duly authorized representative of the officer, consistent with Part V.B of Attachment D (Standard Provisions), who is responsible for ensuring compliance with this Order. Each Permittee shall be charged with and shall demonstrate compliance with its applicable effluent limitations beginning with its December 15, 2013, TMDL Compliance Report.
 - (1) Reporting Compliance based on Full Capture Systems: Permittees shall provide information on the number and location of full capture installations, the sizing of each full capture installation, the drainage areas addressed by these installations, and compliance with the applicable interim or final effluent limitation, in its TMDL Compliance Report. The Los Angeles Water Board will periodically audit sizing, performance, and other data to validate that a system satisfies the criteria established for a *full capture system* and any conditions established by the Regional Water Board Executive Officer in the certification.
 - (2) Reporting Compliance based on Partial Capture Systems and/or Institutional Controls:
 - (a) Using Performance Data Specific to the Permittee's Area: In its TMDL Compliance Report, a Permittee shall provide: (i) site-specific performance data for the applicable device(s); (ii) information on the number and location of such installations, and the drainage areas addressed by these installations; and (iii) calculated compliance with the applicable effluent limitations.
 - (b) Using Direct Measurement of Trash Discharge: Permittees shall provide an accounting of DGR and trash removal via street sweeping, catch basin clean outs, etc., in a database to facilitate the calculation of discharge for each rain event. The database shall be maintained and provided to the Regional Water Board for inspection upon request. In its TMDL Compliance Report, a Permittee shall provide information on its annual DGR, calculated storm year discharge, and compliance with the applicable effluent limitation.
 - (3) Reporting Compliance based on Combined Compliance Approaches:

Permittees shall provide the information specified in Part VI.E.5.c.i(1) for areas where *full capture systems* are installed and that are specified in Part VI.E.5.c.i(2)(a) or (b), as appropriate, for areas where *partial capture devices* and *institutional controls* are applied. In its TMDL Compliance Report, a Permittee shall also provide information on compliance with the applicable effluent limitation based on the combined compliance approaches.

(4) Reporting Compliance based on an MFAC/BMP Approach:

The MFAC/BMP Program includes a Trash Monitoring and Reporting Plan, and a requirement that the responsible Permittees will self-report any non-compliance with its provisions. The results and report of the Trash Monitoring and Reporting Plan must be submitted to Regional Water Board with the Permittee's Annual Report.

- ii. Violation of the reporting requirements of this Part shall be punishable pursuant to, inter alia, California Water Code section 13385, subdivisions (a)(3) and (h)(1), and/or section 13385.1.



July 23, 2012

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SUBJECT: Comments on the Draft NPDES Permit (Draft Order), Order No. R4-2012-XXXX; NPDES Permit NO. CAS004001, for MS4 Dischargers within the Los Angeles County Flood Control District

The LA Permit Group (LAPG) appreciates the opportunity to provide comments on the subject Draft Order for the Los Angeles region. The Los Angeles Permit Group is a consortium of municipalities that was formed to ensure Los Angeles' stormwater is managed properly, both for flood control and water quality protection (LA Permit Group agencies list provided in Exhibit A).

The LA Permit Group was formed, to accomplish several important objectives, including:

- Promoting constructive collaboration and problem-solving between the regulated community (municipalities) and the Los Angeles Regional Water Quality Control Board (LARWQCB);
- Assisting in development of a new NPDES Permit that is capable of integrating the protection of water quality with other watershed objectives in a cost-effective and science-based manner;
- Focusing limited municipal resources on implementation of water quality protection activities that are efficient, effective and sustainable.

Over 62 Los Angeles County municipalities have actively participated in the effort to develop negotiations points and provide comments throughout the MS4 NPDES Permit development process. Comments and negotiations points are developed by each of the LA Permit Group's four Technical Sub-Committees (Development Programs, Reporting & CORE Programs, Monitoring, and TMDLs), which are then approved by the LA Permit Group. The group's consensus is represented by the Negotiations Committee. This comment letter and accompanying exhibits reflect a collaborative effort to develop a permit that will lead to water quality protection in a cost effective manner. We have a number of major and minor concerns with the Draft Order. Our comments are organized around the following major issues:

EXHIBIT B

- Receiving Water Limitations
- TMDLs
- Monitoring
- MCMs
- Watershed Management Program
- Cost Implications

Our recommendations for each issue are noted in **bold** in this letter and our detailed comments on the Draft Order are provided in the Exhibits to this letter (Exhibit B).

We also want to note that the Draft Order contains a number of errors and inconsistencies. This is not surprising given the sheer magnitude of the draft document, which is the basis for our multiple requests for more time to review the more than 500 pages of Permit. As stated in our letter dated July 2, 2012 (incorporated in this letter as attached – Exhibit C) and in Public Comments at the July 12, 2012 Regional Board Meeting, the comment deadline of July 23, 2012 is far too short to address all the potential issues and concerns. On several occasions, the Regional Board staff has used the Staff Working Proposal process and workshops as a justification for the expeditious manner in which the Draft Order was developed and the curtailed 45-day public comment period. This justification is misplaced for several reasons:

- Each Staff Working Proposal was issued with only a few weeks for stakeholders to provide comments on what may be considered the most significant increase in public effort to address water quality issues in the past 20 years;
- Although we provided comments on the working proposal, it is unclear to us how the Regional Board staff addressed our comments. In some cases changes were made and other cases no changes were made. In both cases no explanation was provided. As a result we have attached our previous comment letters for the record (ExhibitD);
- By rolling out different working proposals at different times it was difficult to understand how the key provisions interacted with each other. It was only after the full draft Order was issued did we see the interaction (or lack of interaction) of the provisions;
- It is the LA Permit Group's goal to cooperatively develop the MS4 Permit to support the Regional Board's policy goal of a permit that would reduce the need for litigation. This goal is important to us as we believe that good policy and regulations are those that are developed reasonably, that Permittees are capable of complying with. Even though we have worked hard and in good faith with Regional Board staff to try to develop a Permit that is protective of water quality in a cost-effective and science-based manner, the draft Order places the Permittees in a very vulnerable position for not immediately complying with water quality standards (see our discussion below regarding Receiving Water Limitations);
- It is also important to note that stormwater managers have an obligation to adequately inform other municipal departments, legal counsel, city management and elected officials on the fiscal impact of this draft Order. The time to properly evaluate the Permit, assess its financial, legal, and personnel impacts, and inform our cities cannot be accomplished in the 45 day review period; and
- We have also heard from many cities that their executives and elected officials had registered for the League of California Cities Conference on September 5-7, 2012, months prior to the Permit adoption hearing notice. We request that the adoption hearing be rescheduled after September 6-7, 2012 to allow for elected officials and executive of the Permitted agencies to attend the hearing; it is imperative that the adoption hearing be scheduled at a time that municipal decision makers have the opportunity to attend and provide comments at the hearing.

It is essential that municipalities be given an additional 180 days to review the Permit and develop alternatives for the substantial issues found in this Draft Order. Based on the issues listed above and as communicated in our July 2nd letter and at the July 12th Regional Board meeting, we request that the our appeal for additional time be reconsidered. This could be accomplished by an additional review of a tentative Order before an adoption hearing is held.

Receiving Water Limitations

As previously outlined in our 05/14/12 comment letter on the working proposal, the Receiving Water Limitations (RWL) language in the Draft Order creates a liability to the municipalities that is unnecessary and counterproductive. We have the following significant concerns with the RWL language included in the Draft Order:

- Recent court decisions have created a new interpretation of the RWL that creates a liability for the Permittees without a commensurate increase in protection of water quality.
- The RWL as written is not a federal requirement so it is not necessary to maintain the current language.
- The RWL as written is contradictory to the Watershed Management Program.
- Alternative approaches are available to address the concerns and maintain the intent of the language in the approach; we request that RWQCB utilize this alternative language.

We feel that the RWL as included in not necessary and does not support the improvement of water quality as discussed in more detail below.

Creation of Unwarranted Liability

The proposed language for the receiving water limitations provision is almost identical to the language that was litigated in the 2001 Permit. On July 13, 2011, the United States Court of Appeals for the Ninth Circuit issued an opinion in *Natural Resources Defense Council, Inc., et al., v. County of Los Angeles, Los Angeles County Flood Control District, et al.*¹ (*NRDC v. County of LA*) that determined that a municipality is liable for Permit violations if its discharges cause or contribute to an exceedance of a water quality standard. This represents a fundamental change in interpretation of policy and contrasts sharply with the Board's own understanding as expressed in a 2002 letter from then-Chair Diamond answering questions about the 2001 MS4 Permit in which she articulated this collective understanding that a violation of the Permit would occur only when a municipality fails to engage in good faith effort to implement the iterative process to correct the harm². In light of the 9th Circuit's decision and based on the significant monitoring efforts being conducted by other municipal stormwater entities, municipal stormwater Permittees would be considered to be in non-compliance with their NPDES Permits. Accordingly, municipal stormwater Permittees will be exposed to considerable vulnerability, even though municipalities have little control over the sources of pollutants that create the vulnerability. Basically, the draft Order language again exposes the municipalities to enforcement action (and third party law suits) even when the municipality is engaged in an adaptive management approach to address the exceedance.

¹ No. 10-56017, 2011 U.S. App. LEXIS 14443, at *1 (9th Cir., July 13, 2011).

² January 30, 2002. Letter from Francine Diamond, Chair, Los Angeles Regional Water Quality Control Board

The LA Permit Group would like to more fully address Board Member Glickfeld's question raised at the May 3rd workshop about how the RWL language as currently written puts cities in immediate non compliance, either individually or collectively. As noted above, significant monitoring by other MS4s in the state had demonstrated that MS4 discharges pose water quality issues and with the proposed outfall monitoring detailed in the Draft Order we would expect the runoff characteristics to be similar to other MS4 discharges in the State. As the RWL language is currently written, municipalities cannot cause or exceed water quality standards in the basin plan as soon as this Permit is adopted. While the Regional Board staff has noted that enforcement action is unlikely if the Permittees are implementing the iterative process, the reality is that municipalities are immediately vulnerable to third party lawsuits in addition to enforcement action by the Regional Board. This is in fact what happened to the City of Stockton. The City of Stockton was sued by a third party for violations of the cause/contribute prohibition even though the City was implementing a comprehensive iterative process with specific pollutant load reduction plans. This was a series of pollutants not covered by a TMDL, but that dealt with water quality exceedances. Cities will have no warning or time to react to any water quality exceedances, but still be vulnerable to third party lawsuits even when cities are diligently working to address the pollutants of concern. This will be disastrous public policy, creating a chilling effect on productive storm water programs. Also in the Santa Monica Bay, cities were sent Notices of Violation that, in essence, stated that all cities in the watershed were guilty until they proved their innocence when receiving water violations were found, in some cases miles away. The "cause and contribute" language was quoted prominently in those NOV's as justification for why the Regional Board could take such action.

It is inherently unfair and poor public policy to put cities in non-compliance on day one of the Permit without the opportunity for the cities to develop a plan of action, develop source identification, and implement a plan to address the concern. With the very recent legal interpretation that fundamentally changes how these Permits have been traditionally implemented, please understand that adjusting the Receiving Water Limitations language is a critical issue. Again, the receiving water limitation language must be modified to allow for the integrated approach (iterative/adaptive management) to address numerous TMDLs and non-TMDL water quality problems within the watershed based program in a systematic way. This is a fair and constructive approach to meet water quality standards.

Receiving Water Limitation Language as Written is Not Required under Federal Law

We believe Federal Law does not require that the RWL language be written as presented in the Tentative Permit. Based on the language presented in other Permits throughout the United States, the proposed language is not the only option. The RWL provision as crafted in the contested 2001 Los Angeles permit is unique to California. Recent USEPA developed Permits (e.g. Washington D.C.³) do not contain similar limitations. Thus, we would submit that the decision to include such a provision and the structure of the provision is a State policy and therefore an opportunity exists for the Regional and State Boards to reaffirm the iterative process as the preferred approach for long-term water quality improvement.

Receiving Water Limitation Language as Written is Contradictory to the Watershed Management Program

Beyond the legal/liability aspect of the RWLs we would submit that in a practical sense the RWL, as currently written, does not support the Permit's goal of protecting water quality and works against the Watershed Management Program proposal. On the one hand, the municipalities will develop watershed management

³ NPDES Permit No. DC0000221, October 7, 2011, issued by USEPA Region 3.

programs that are based on the highest priority water quality issues within the watershed. Consistent with the Draft Order provision for the Watershed Management Program, we would expect the focus to be on TMDLs and the pollutants associated with those TMDLs. However, under the current RWL working proposal, the municipality will need to direct their resources to any and all pollutants that may cause or contribute to exceedances of water quality standards. Based on a review of other municipal outfall monitoring results in the State, there will be occasional exceedances of other non-TMDL pollutants (e.g. aluminum, iron, etc.). These exceedances may only occur once every 10 storms, but according to the current RWL proposal the municipalities must address these exceedances with the same priority as the TMDL pollutants. The LA Permit Group views this as unreasonable and ineffective use of limited municipal resources.

We have requested that this language be revised on several occasions including written comments, workshop comments, and meetings with staff; however this issue has not yet been resolved in the Tentative Permit. An explanation is requested as to why this language remains as presented in the Draft Order is requested. Alternative Approaches are Available to Address Concerns.

The RWL language is a critical issue for municipalities statewide and has been highlighted to the State Water Resources Control Board for consideration. Currently the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. It is imperative that the Regional Board works with the State Board on this very important issue.

The California Association of Stormwater Quality (CASQA) has developed draft language that we feel should be used in lieu of the current language. The language provides specificity in compliance and subjects Permittees who are not engaged in good faith in the iterative process to enforcement without unnecessary and counterproductive liability for the majority of Permittees who are diligently implementing stormwater programs. We feel that the CASQA language maintains the intent of the current RWL while addressing the concerns outlined above.

Recommendation: Develop Receiving Water Limitation language consistent with the California Association of Stormwater Quality language that was submitted in a comment letter on Caltrans Permit (Exhibit E) and on the Statewide Phase II Permit which defines action thresholds, an iterative/adaptive management process, and avoids unnecessary liability.

Total Maximum Daily Loads

As outlined in our May 12, 2012 comment letter on the TMDL working proposal, the incorporation of TMDL WLAs into the Tentative Permit is of critical importance to the LASP. **WLAs should be incorporated using a BMP-based approach that includes an iterative approach to attain the WLAs and provides flexibility to the Permittees to address the complexities of addressing multiple TMDLs within a watershed.** The best mechanism to achieve water quality standards is by implementing BMPs, evaluating their effectiveness and implementing additional BMPs as necessary to meet TMDL WLAs. Without this process, and due to the requirement in the Draft Order to meet numeric values, our ability to effectively implement BMPs is hampered by the legal issues associated with Permit compliance.

The Draft OrderDraft Order proposes to incorporate more TMDLs than any other Permit in California issued to date. As a result, the manner in which the TMDLs are incorporated into the Permit is a critical issue to the LA Permit Group and will likely set a significant precedent for future MS4 Permits.

The rate of development of TMDLs in the Los Angeles Region was unparalleled in California, and likely the nation. A settlement agreement necessitated the much accelerated time schedule for these TMDLs. The TMDLs were developed based on the information available at the time, not the best information to identify or solve the problem. As a result, the sophistication of the TMDLs vary widely, meaning that not all TMDLs are created equal regarding knowledge of the pollutant sources, confidence in the technical analysis, availability of control measures sufficient to address the pollutant targets, etc. Additionally, the majority of the TMDLs were developed with the understanding that monitoring, special studies, and other information would be gathered during the early years of the TMDL implementation to refine the TMDLs. As such, many MS4 dischargers were told during TMDL adoption that any concerns they may have over inaccuracies in the TMDL analysis would be addressed through a TMDL reopener. The recent experience with the Santa Monica Bay Beaches Bacterial TMDL reopener demonstrates just how difficult, if not impossible, obtaining serious reconsideration of established TMDLs, irrespective of the weight of evidence presented. The proposed method of incorporating TMDL waste load allocations (WLAs) as outlined in the Draft OrderDraft Order does not effectively allow for addressing this phased method of implementing TMDLs; nor does it recognize the time, effort and complexities involved in addressing MS4 discharges; and places municipalities into non-compliance risk.

We recognize and appreciate that TMDLs must be incorporated in such a way as to require action to improve water quality. However, the Permit should recognize the articulated goal of many of the TMDLs to be adaptive management documents, using the iterative approach to achieve the goals, and consider the challenges of trying to address the non-point nature of stormwater. As such, it is imperative to have flexibility in selecting an approach to address the TMDLs and the time frame by which to implement the approach. We would like to thank Board staff for providing the opportunity to submit an implementation schedule and BMPs in context of a Watershed Management Plan to attain EPA TMDL WLAs. The same flexibility is also necessary to address Regional Board adopted TMDLs.

The LA Permit Group would submit that the Regional Board staff is making two policy decisions that have massive financial impacts to the region (studies show in the range of billions of dollars) with regards to incorporating TMDLs into a stormwater NPDES Permit:

- The inclusion of numeric effluent limitations for final TMDL WLAs.
- The use of time schedule orders to address Regional Board adopted TMDLs for which the compliance points have passed.

Numeric Effluent Limitations for Final TMDL WLAs

The LA Permit Group opposes the incorporation of final WLAs solely as numeric effluent limitations in the proposed Permit language. Although staff has discretion to include numeric limits where feasible, it is not required and the use of numeric limits results in contradictions and compliance inconsistencies with the rest of the Permit requirements. Court decisions (See *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-1167 (9th Cir. 1999)⁴), State Board orders (Order WQ 2009-0008, In the Matter of the Petition of County of Los

⁴ See also California Regional Water Quality Control Board San Diego Region - Fact Sheet / Technical Report For Order No. R9-2010-0016 / NPDES NO. CAS0108766.

Angeles and Los Angeles County Flood Control District, at p. 10)⁵ have affirmed that WLAs can be incorporated as non-numeric effluent limitations.

Under 40 CFR Section 122.44 (k), the Regional Board may impose BMPs for control of storm water discharges in lieu of numeric effluent limitations when numeric limits are infeasible. It states that best management practices may be used to control or abate the discharge of pollutants when numeric effluent limitations are infeasible. In 2006, the State Board convened Blue Ribbon Panel made recommendations to the State Water Resources Control Board concluding that it was not feasible to incorporate numeric limits into Permits to regulate storm water, and at best, there could be some action level to focus on problematic drainage sheds⁶. Very little has changed in the technology and the feasibility of controlling storm water pollutants since 2006. What has changed is that a legally compelled, long list of TMDLs has been adopted in the LA Region in a very short time period. The draft stormwater Permit for CalTrans also states "Storm water discharges from MS4s are highly variable in frequency, intensity, and duration, and it is difficult to characterize the amount of pollutants in the discharges. In accordance with 40 Code of Federal Regulations section 122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water Permits. This Order requires implementation of BMPs to control and abate the discharge of pollutants in storm water to the MEP. To assist in determining if the BMPs are effectively achieving MEP standards, this Order requires effluent and receiving water monitoring. The monitoring data will be used to determine the effectiveness of the applied BMPs and to make appropriate adjustments or revisions to BMPs that are not effective." The LAPG requests similar consideration as the Draft Order is a much more variable and complicated MS4 than CalTrans.

Additionally, during the May 3, 2012 MS4 Permit workshop, Regional Board staff seemed to indicate that the basis for incorporating the final WLAs as numeric effluent limitations is EPA's 2010 memorandum pertaining to the incorporation of TMDL WLAs in NPDES Permits⁷. This memorandum (which is currently being reconsidered by U.S. EPA) states that "EPA recommends that, *where feasible*, the NPDES permitting authority *exercise its discretion* to include numeric effluent limitations as necessary to meet water quality standards" (emphasis added). This statement highlights the basic principle that the Regional Board has discretion in how WLAs are incorporated into a MS4 Permit. Regional Board staff commented during the workshop that staff have evaluated data and have determined numeric effluent limitations are now feasible. However, no information refuting the Blue Ribbon Panel report recommendations has been provided that demonstrates how the appropriateness of using strict numeric limits was determined and why these limits are considered feasible now even though historically both EPA and the State have made findings that developing numeric limits was likely to be infeasible.

Given the discretion available to Regional Board staff and the variability among the TMDLs with respect to understanding of the pollutant sources, confidence in the technical analysis, and availability of control measures sufficient to address the pollutant targets, **it is critical to use non-numeric water quality based**

⁵ "[i]t is our intent that federally mandated TMDLs be given substantive effect. Doing so can improve the efficacy of California's NPDES storm water permits. This is not to say that a wasteload allocation will result in numeric effluent limitations for municipal storm water dischargers. Whether future municipal storm water permit requirement appropriately implements a storm water wasteload allocation will need to be decided on the regional water quality control board's findings *supporting either the numeric or non-numeric* effluent limitations contained in the permit." (Order WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District, at p. 10 (emphasis added).)

⁶ Storm Water Panel Recommendations to the California State Water Resources Control Board "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities. June 19, 2006.

⁷ U.S. EPA, *Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*, Memorandum from U.S. EPA Director, Office of Wastewater Management James A. Hanlon and U.S. EPA Director, Office of Wetlands, Oceans, and Watershed Denise Keehner (Nov. 10, 2010).

effluent limitations for final WLAs in this Permit. The proposed Watershed Management Program will require quantitative analysis to select actions that will be taken to achieve TMDL WLAs. For the entire length of the TMDL compliance schedule, Permittees will be required to demonstrate compliance with interim WLAs by implementing actions that they have estimated to the best of their knowledge will result in achieving the WLAs and water quality standards. However, unless final WLAs are also expressed in this Permit as action-based water quality based effluent limitations, and if instead strict numeric limits are required for final WLAs, then, at the specified final compliance date, no matter how much the Permittee has done, no matter how much money has been spent, no matter how close to complying with the numeric values, no matter what other sources outside the Permittees' control have been identified and quantified, and no matter what other information has been developed and submitted to the Regional Board, the Permittee will be considered out of compliance with the Permit requirements. Furthermore, because of the structure established in this Permit, the Regional Board staff will have to consider all Permittees in this situation as being out of compliance with the Permit provisions if the strict numeric limits have not been met, regardless of the actions taken previously. This approach is inconsistent with the goals of good public policy, fair enforcement, fiscal responsibility and holding Permittees responsible only for discharges over which they have individual control.

TMDLs Where Compliance Date Has Already Occurred

The LA Permit Group is also concerned with the major policy decision related to the use of Time Schedule Orders for Regional Board adopted TMDLs for which the compliance date has already occurred prior to the approval of the NPDES Permit. There is a fundamental problem with the TMDL process whereby new information is not being incorporated into TMDLs. The ideal phased TMDL implementation process whereby dischargers can collect information, submit it to the Regional Board, and obtain revisions to the TMDL requirements to address data gaps and uncertainties has not occurred. As evidenced by the number of overdue Permits, the workload commitments of Regional Board staff are significant and TMDL reopeners seldom occur. Because the majority of the TMDLs have not been incorporated into Permit requirements until now, MS4 Permittees have been put in the position of trying to comply with TMDL requirements without knowing how compliance with those TMDLs would be determined and without knowing when or if promised considerations of modifications to the TMDL would occur. So Permittees would be expected to be in immediate compliance with new Permit provisions irrespective of most precedent, guidance regarding incorporation of TMDLs into MS4 Permits, and irrespective of what actions Permittees have taken to try and meet the TMDL requirements. This is neither fair nor consistent as requesting a TSO would place a Permittee in immediate non-compliance with the Permit and expose the Permittee to risk of third party lawsuits.

The LA Permit Group strongly believes that the adaptive management approach envisioned during TMDL development, whereby TMDL reopeners are used to consider new monitoring data and other technical information to modify the TMDLs, including TMDL schedules as appropriate, is the most straightforward way to address past due TMDLs. The Regional Board should use the reopener as an opportunity to adjust the implementation timelines to reflect the practical and financial reality faced by municipalities. Final WLAs should be delayed until serious reconsideration of the data that established the TMDLs so that the TMDLs can reflect information gathered during the implementation period. This will allow critically important data to be utilized to selectively modify time schedules in the TMDLs. Final compliance with TMDL Permit conditions should not occur prior to these additional TMDL reconsiderations. Additionally, the Permit should reflect any modifications to the TMDL schedules made through the reopener process, either through a delay in the issuance of the Permit until the modified TMDLs become effective, or by using its discretion to establish a specific compliance process for these TMDLs in the Permit. Providing for compliance with these TMDLs

through implementation of BMPs defined in the watershed management plans as we have requested for all other TMDLs is a feasible, fair and consistent way to achieve this goal.

Recommendation:

- **Provide a provision which requires that a TMDL be reconsidered in light of information that was not available when the TMDL was developed before the final WLAs become effective.** Whenever the reconsideration has been completed, the Permit should be reopened to make changes to any wasteload allocation, time schedules, and other pertinent information.
- **Translate WLAs into WQBELs, expressed as BMPs.**
- **State that the implementation of the BMPs using an iterative process will place the Permittee into compliance with the MS4 Permit.**
- **Provide for four compliance options for both interim and final WLAs:**
 - **Implement Actions/BMPs consistent with Watershed Management Program**
 - **Compliance at the outfall (end of pipe)**
 - **Compliance in the receiving water (river, creek, ocean)**
 - **No direct discharges**
- **Allow for the adaptive management approach to be utilized for TMDL compliance, consistent with the timelines identified in the Watershed Management Programs.**

Monitoring

The proposed monitoring program requirements have significantly increase compared to our current required efforts. Although we understand the need for monitoring to support the Permit, we believe there are number of issues within the MRP that need to more fully vetted and discussed. These issues include:

- **Receiving water monitoring should be consistent with SWAMP protocols including the requirement that ambient monitoring be conducted two days following a storm event.** Currently the receiving water monitoring is proposed to be conducted during storm events. Such an approach will not support the need to assess the receiving water quality consistent with the SWAMP approach that is used as the basis for 303(d) listing.
- **The focus and scope of non-stormwater monitoring is not commensurate with the environmental issues associated with dry weather flows.** We believe the non-stormwater monitoring should be to help identify illicit discharges and not for assessing the multitude of objectives noted in the MRP, II.E.a – c. Furthermore we would submit that the MS4s should focus its non-stormwater monitoring on discharges “into” our MS4 and not on discharges “through” or from our MS4s that may cause or contribute to exceedances of water quality standards. This is consistent with CWA section 402(p)(B).
- Regarding regional studies (MRP XI.A – B), the LAPG would submit that these studies should be conducted by the Regional or State Board. But if the Permit does require special studies, **the Permit needs to establish the mechanism/option for Permittees to participate in the studies without having to conduct the studies on an individual basis.** Furthermore, the Regional Board should be the agency to lead and coordinate these studies. The MRP appears to read that each and every Permittee must conduct the regional studies.
- **Toxicity monitoring should be limited to the receiving water only and not at the outfalls.** It’s important to establish whether is a toxicity issue in the receiving water before conducting this

expensive monitoring at the outfalls. Furthermore, recent Department of Pesticide Regulations⁸ has severely limited the use of pyrethroid based pesticides, thus calling into question the need for expensive toxicity monitoring, especially at outfalls. And finally, should a study be deemed necessary, the Regional Board should lead this study.

- Insufficient time is allotted to prepare Coordinated Integrated Monitoring Plans (CIMP). Since the monitoring for TMDLs should continue per the TMDL schedules, the Permittees should be allowed sufficient time to prepare the CIMPs. To prepare a CIMP the Permittees will need more than a Letter of Intent to proceed. **We recommend that the Draft Order be modified to allow 12 months to submit a Memorandum of Agreement to participate in a CIMP and 24 months to submit the complete CIMP.** The time required to award the monitoring contract is 3 months, at least 6 months are needed to obtain Los Angeles County Flood Control Encroachment Permits, thus at least 9 months is needed before commencing monitoring.

Minimum Control Measures

In order to further water quality improvements, the Permit needs to set clear goals, while allowing flexibility with the programs and BMPs implemented. This is accomplished through integrated watershed planning and monitoring. This strategy has been requested by the LA Permit Group as it will allow Permittees to look at the larger picture and develop programs and BMPs based on addressing multiple pollutants. In doing so, limited local resources can be concentrated on the highest priorities. The LA Permit Group has on numerous occasions expressed our support of a watershed based approach to stormwater management. It would appear from a read of Provision VI.C.1.a (page 45) that the Board also supports this approach. We believe the opportunity for a municipality to customize the MCMs to reflect the jurisdiction's water quality conditions is absolutely critical if municipalities are to develop and implement stormwater programs that will result in environmental improvement. **We, however, suggest that the Permit ultimately establish criteria that will be used to support any customization of MCMs.** The criteria should be comprehensive but flexible. We suggest some flexibility in the criteria because the management of pollutants in stormwater is a challenging task and that the science and technology to help guide customizing MCMs are still developing. Furthermore, the municipal stormwater performance standard to reduce pollutants to the maximum extent practicable is not well defined and will depend on a number of factors⁹. This constraint, as well as USEPA position¹⁰ that the iterative process is the basis for good stormwater management, supports the need to provide flexibility in defining the criteria for customizing MCMs. **Also, for clarification, the terms of adaptive management approach and the iterative approach need to be defined as equivalent and that they can be used interchangeably.**

Timeline for Implementation

The Draft Order does not provide adequate and reasonable timelines for the start-up and implementation of the Minimum Control Measure requirements. For example, the Draft Order in provision VI.D.1.b.i requires the majority of MCMs to begin within 30 days, unless otherwise noted in the order. There are a number of new/enhanced provisions and it is fair to say that there will be a transition period between the time the Permit becomes effective and the time that the municipalities will have to modify their current stormwater management programs to be in compliance with the new Permit provisions. At the same time, consideration should be given to the time required to develop watershed based "customized" programs. The LA Permit

⁸ http://www.cdpr.ca.gov/docs/legbills/rulepkgs/11-004/text_final.pdf.

⁹ See E. Jennings 2/11/93 memorandum to Archie Mathews, State Water Resources Control Board.

¹⁰ See Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 FR 43761 (Aug. 26, 1996).

Group requests that the Regional Board provide a revised timeline for implementation and phasing-in of the Minimum Control Measure requirements. **We request that the Permit allow a 12 month time schedule to transition from our current efforts to the new and enhanced MCMs requirements.**

Shifting of State Responsibility to the MS4

The Draft OrderDraft Order shifts much of the State responsibilities regarding the State's General s for Construction and Industrial Activities to the municipalities. These new responsibilities have significant financial responsibilities on the permittees (ex. plan reviews, inspections time, reporting, enforcement, etc.). This is especially true for the Statewide General Construction Activities Permit (GCASP) and Provision VI.D.7. A few examples of where the Draft Order either shifts the responsibility or actually exceeds the requirements of the GCASP are listed below:

- Maintaining a database that overlaps with the States' own SMARTS database. Asking Permittees to collect the same data adds unnecessary time and expense with no benefit to water quality;
- Requiring the quantification of soil loss is redundant with the GCASP and adds additional MS4 costs.
- Inspections will be increased by more than 200% and are redundant since the State should be responsible for implementation of its own permit particularly in light of the fact that the State collects a permit fee for implementation.

Those elements that shift State responsibility should be eliminated and the MCMs should be coordinated with other state and federal requirements, with particular attention to GCASP and General Industrial Activities Permit requirements.

MCMs Should Reflect Effective Current Efforts

The LA Permit Group understands that the new Permit must reflect current understanding of stormwater management and water quality issues. Where the current stormwater management effort is assessed to be inadequate, then additional efforts are warranted. However, when current efforts are assessed to be adequate for protecting water quality, then the MCMs should reflect current efforts. One significant area where the LA Permit Group believes that the current effort is protective of water quality is in the new development program. The City and County of Los Angeles as well as the City of Santa Monica have developed and adopted Low Impact Development ordinances and significant work, technical analysis, and public input have gone into the development of these ordinances. Each of these ordinances required tailoring of standards to address the unique characteristics of their city (ex. size, land uses, soils, groundwater, watershed(s), hydrology, etc.). **The Permit should reference the type of program and flexibility needed to accommodate the unique and vastly varying characteristics throughout the County.** Instead of providing detailed information in the text of the Permit, the LID provisions should outline general requirements of the program, and the details should be contained in a technical guidance manual. This point was reiterated by several speakers at the April 5, 2012 workshop, including BIA. Ultimately, it may be more constructive if the Regional Board created a template for the Permittees to use.

New Development MCM

Notwithstanding our comments above, the LA Permit Group has a number of concerns with the New Development provision of the MCMs. While the LA Permit Group has concerns and need for clarification with the other MCMs we find the New Development MCM the most challenging and unsupportable. The provision is difficult to follow and the BMP selection hierarchy is confusing and at times in conflict. We have provided specific comments on this provision but it suffice to say that the LA Permit Group believes this provision should be redrafted. We have significant concerns with the following parts of the New Development MCM:

- Storm design criteria
- Alternative compliance option offsite mitigation
- Treatment control performance benchmarks
- BMP tracking and inspection
- BMP specificity and guidance
- Hydromodification

Storm Design Criteria

The Draft Order in Provision D.6.c.i (page 70) requires the developer to retain the stormwater quality design volume as calculated by either the 0.75 inch storm or the 85th percentile 24 hour storm whichever is greater. We take exception to the requirement to select the largest calculated volume. In all Permits to date in California these two design criteria were judged to be equivalent. **We recommend that the Draft Order be modified to specify that the two criteria are equivalent.** In fact, the current stormwater 2001 Permit for Los Angeles County includes four design criteria to choose from for the stormwater volume. The additional effort to assess every project to choose between two equivalent design criteria makes little sense and adds cost to any project. We recommend that the developer be allowed to choose between the two criteria without the need to calculate the largest.

Alternative Compliance Option - Offsite Mitigation

The Draft Order goes into great detail discussing an alternative compliance option to full on- site retention of the design storm volume. The alternative option takes the form of an offsite mitigation project. As currently structured it is highly unlikely that anyone will opt for this alternative compliance option. Probably the biggest hurdle for developers to overcome if they are to pursue offsite mitigation is the requirements that they must treat the project site runoff to the levels identified in Table 11. This combined with the requirement that the offsite mitigation project must be equivalent in pollutant load reduction as the original project site equates to the developer removing essentially twice as much pollutant loads as he would had accomplished on the project site had the site been able to retain the load onsite originally. This is inherently unfair. **We would recommend that the developer be required to remove only the pollutant loads that would have been removed at the project site at the mitigation site and if the mitigation site cannot meet that load reduction then the developer can implement treatment controls at the project site for the remaining differential.** Such an approach is fair and will be more readily accepted by the development community than the current proposal.

Treatment Control Performance Benchmarks

The concept of establishing benchmarks for post construction BMPs was initially developed in the 2009 Ventura MS4 Permit. However, there is a significant different between the Permits. The Ventura County's NPDES MS4 Permit requires the project developer to determine the pollutant of concern(s) for the development project and use this pollutant as the basis for selecting a top performing BMP. In the case of the Draft Order, there is no determination of the pollutant of concern for the development project. Instead post construction BMPs must meet all the benchmarks established in Table 11. Unfortunately, no one traditional post construction BMP (non-infiltration BMPs) is capable of meeting all the benchmarks and thus the developer will not be able to select a BMP. **We recommend that provision VI.D.6.c.iv.(1)(a) (page 74) be modified so that the selection of post construction BMPs is consistent with the Ventura Permit and is based**

on the development site's pollutant of concern(s) and the corresponding top performing BMP(s) that can meet the Table 11 benchmarks.

BMP Tracking and Inspection

In the Draft Order provision VI.D.6.d the Permittees are being required to track and inspect post construction BMPs including LID measures. The provision does allow that such effort can be addressed by the project developer but even with this consideration the provision is onerous for city staff as this would still require significant staff time (ex. plan reviews, data entry, letter preparation and enforcement, etc.). This is especially true for LID measures which if planned and designed correctly will include a large number of measures (planter boxes, infiltration trenches, swales, etc.) on every site. Furthermore most of the LID measures will be infiltration type measures which are difficult to inspect and should be only inspected in wet weather when one can ascertain that the LID measures are operating correctly. This inspection concept when taken to the extreme will mean that municipalities will be inspecting LID measures all over the community and only during rain events. This is just flat unreasonable and cost prohibitive for the municipality. Furthermore, the cost for implementation (e.g. inspection, monitoring, enforcement, etc.) are not shown to be commensurate with any corresponding improvement in water quality. **We recommend that the tracking and inspection of post construction BMPs be limited to only the conventional BMPs (e.g. detention basins, wetlands, etc.); alternatively require the MS4 to spot check a limited number of LID measures to ascertain how well they are operating.**

BMP Specificity

The Draft Order in Attachment H provides detail specifications for biofiltration and bioretention BMPs. The LA Permit Group believes that such specificity, although well intended, is counterproductive. Such specificity is equivalent to a wastewater NPDES Permit specifying the grain size in the multimedia filtration unit. It is more appropriate to establish the performance standard for the BMP and to allow the MS4 to develop design specifications to meet the standard. **We recommend that Attachment H be removed and a provision be established that establishes a collaborative approach to promote a technical guidance manual that would include the design specifications for bioretention/biofiltration.**

Hydromodification

The LAPG would submit that it is premature to change the hydromodification criteria, specifically the interim criteria. In our current 2001 order, Permittees were required to develop numerical criteria for peak flow control, based on the results of the Peak Discharge Impact Study. **We believe it more constructive to keep with the previously developed hydromodification criteria and not revised it for the interim until the final criteria can be developed by the State.** A change now and then one later on just adds confusion to the development process and creates additional work for a limited or non-existent water quality improvement. The effort under the 2001 Permit should be sufficient until such time the final criteria are developed.

Public Agency MCM

The Draft Order identifies a number of requirements for public agency MCMs. Our detailed comments are attached, but there are two issues we want to highlight here. First is provision VI.D.8.h.vii (page 102) which specifies additional trash BMPs regardless of whether the area is subject to a trash TMDL. We take exception to this approach, as the MCM requires prioritization, cleaning and inspection of catch basins as well as street sweeping and other management control measures to address trash at public events. And then even if the

Municipality is controlling trash through these control measures, the Municipality must still install trash excluders (see page 102 regarding “additional trash management practices”). This makes little sense and **the LA Permit Group would submit that if the initial control measures are successful, then the “additional trash management practices” are unnecessary (as evident by the lack of a TMDL).**

The second issue pertains to provision VI.D.8.d (page 94) regarding retrofitting opportunities. Provision VI.D.8.d.i requires that the MS4 develop an inventory of retrofit opportunities within the public right of way but then in provision VI.D.8.d.ii, the Draft Order requires the Permittees screen existing area of development. Furthermore in provision VI.D.8.d.iii the MS4 must prioritize all existing areas of development. Reading these provisions in whole would seem to indicate that the MS4 must identify all potential retrofit sites (private or publically owned) and to prioritize the sites. This is a contentious issue and should be addressed carefully. Stormwater regulations (40 CFR 122.26.(d)(2)(iv)(4) requires consideration of retrofitting opportunities, but the consideration is limited to flood management projects (i.e. public right of way) and does not require consideration of private areas. **We recommend that for this Permit term that the retrofit provision (i.e. inventory, screening, and prioritization) be limited to public right of ways lands only.**

ID/IC MCM

The Draft Order identifies a number of provisions that are fundamental to an Illicit Connection/Illegal Discharge program. These provisions include

- III. Discharge Prohibition,
- VI.A.2 Standard Provisions – Legal Authority,
- VI.D. 9 IC/ID Elimination Program,
- Attachments E, Monitoring and Reporting and
- Attachment G Non-stormwater Action Levels.

When combined, the ID/IC program will require a significant effort and not always effective. We have provided specific comments on these provisions in the Exhibit to this letter but we would like to highlight two of the more significant issues. First, is the magnitude of the dry weather monitoring being required. The TMDLs monitoring programs have already identified, to a large extent, a comprehensive non-stormwater monitoring program. **As such, the TMDL monitoring program should be the basis for the “non-stormwater outfall based monitoring program” and both should be identified in an Integrated Watershed Monitoring Program.**

The second issue pertains to the non-stormwater action levels established in Attachment G. One of the goals of establishing non-stormwater action levels is to assist Permittees in identifying illicit connections and/or discharges at outfalls. Exceedances of action levels can help Permittees prioritize and focus resources on areas that are having a real impact on water quality. Unfortunately, as currently drafted, the non-stormwater action levels do not accomplish this goal. The action levels established in the Draft Order are derived from Basin Plan, CTR, or COP water quality objectives. The non-stormwater action levels do not facilitate the consideration of actual impacts (e.g., excess algal growth), have no nexus to receiving water conditions, and do not address NAL issues unrelated to illicit discharges (e.g., groundwater). The action levels and the associated monitoring specified in the Monitoring and Reporting Program would require Permittees to investigate and address issues on an outfall-by-outfall basis, even if the receiving water is in compliance with all water quality standards. This will not assist Permittees in prioritizing resources on outfalls that are clearly having an impact on water quality. **We recommend that the Permit allow the Watershed Management Programs to guide the customization of the NALs based on the highest water quality priorities in each**

watershed and to establish them at a level that would provide better assurance that illicit discharges can actually be found and not have every outfall become a high priority outfall. If NALs are not established through the Watershed Management Programs, or Permittees should be required to use the default NALs and approach identified in Attachment G.

Watershed Management Programs

Overall, the LA Permit Group supports the Regional Board's proposed approach to address high priority water quality issues through the development and implementation of a Watershed Management Program. However, one of our biggest concerns continues not be addressed, is the Draft Order proposed timeline for developing the watershed management program(s). The Draft Order allows the municipalities only one year to develop a comprehensive watershed management program. This is insufficient time to organize the watershed cities and other agencies, develop cooperative agreements, initiate the studies, calibrate and run the models based on relevant data, draft the plans, and obtain necessary approvals from political bodies. As a comparison, the City of Torrance required two years to prepare a comprehensive water quality plan that addressed a suite of TMDLs, similar to what is being considered in the watershed management program. **We believe that it will require at least 24 months to develop a draft plan that is comprehensive, analytically supported, and implementable. Alternatively we would suggest a phased approach where some initial efforts (e.g. MOUs, retrofit inventory) could be completed and submitted within 12 months but allow 24 month timeline for the more complicated or resource intensive efforts.**

We also offer the following comments regarding the Watershed Management Program (our line item by line item review and comments are attached):

- The Draft Order seems to be silent on the critical issue of sources of pollutants outside the authority of MS4 Permittees (e. g. aerial deposition, upstream contributions, discharges allowed by another NPDES permit, etc.). **We request that Permittees be allowed to demonstrate that some sources are outside the Permittee's control and not responsible for managing or abating those sources.**
- **The Permit needs to clearly state that watershed management programs and the reasonable assurance analysis can be used for TMDL compliance purposes.**
- **The Permit should clarify that the adaptive management process is equivalent to the iterative process described in the Receiving Water Limitation provision and provide the legal justification for the adaptive management process.**
- More careful consideration should be given to the frequency and extent of the reporting and adaptive management assessments. The current Draft Order results in a significant annual effort and the LA Permit Group members question the value of such an effort. Current reporting appears to overwhelm Regional Board staff resources and has provided limited feedback to the municipalities. We believe that the reporting can be streamlined and that the jurisdictional and watershed reporting should be combined. **Furthermore, we recommend that the adaptive management process be applied every two years instead of the every year frequency noted in the Draft Order.**
- It is unclear how the current implementation of our stormwater program and TMDL compliance will be handled during the interim period before development of the watershed management program. For those entities that choose this path, **the LA Permit Group requests that current, significant efforts in our existing programs and implementation plans be allowed to continue while we evaluate new MCMs as part of the watershed management program.**

- **Consideration of the technical and financial feasibility of complying with water quality standards should be included in the watershed management program.**
- The timing of revising the Watershed Management Programs is in conflict and confusing. There should only be one revision to the Watershed Management Program, and only when adaptive management/iterative process demonstrates that the modification is warranted.
- The adaptive management/iterative approach and timing should be consistent between individual Permittees (“jurisdictional watershed management program”) and the watershed management program.

Cost/Economic Implications

Regarding fiscal resources, the LA Permit Group would like to reemphasize the limited parameters in which municipalities operate. The Draft Order (page 40) requires municipalities to exercise its authority to secure fiscal resources necessary to meet all of the requirements of the Permit. We have reservations as to whether this provision is legal given that it appears to violate the State Constitution, Article XVI, Section 18. That being said, Permittees have a limited amount of funds that are under local control. Any additional funds needed to raise money for stormwater programs would need to come from increased/new stormwater fees and grants. **New fees for stormwater are regulated under the State’s Prop 218 regulations, and require a public vote. Therefore, raising new fees is an item that is not under direct control of the municipalities – the Permit language should reflect this.** Furthermore, in addition to clean water, local resources are also directed to a number of health, safety and quality of life factors. Thus, all these factors need to be developed in balance with each other. This requires a strategic process and that will take time to get right. We request that the Regional Board develop the Permit conditions based on a reasonable timeframe in balance with the existing economy and other health, safety, regulatory and quality of life factors that local agencies are responsible for.

The LA Permit Group also wants to address the issue of whether or not these Permit requirements constitute an unfunded mandate. The Fact Sheet makes a unilateral statement that the Regional Board has determined that the Permit requirements do not exceed Federal requirements and therefore are not unfunded mandates. No back up information is provided to substantiate this claim. Our request is for the Regional Board to substantiate this statement for each section of the Permit. We also want to point out that the court decisions on unfunded mandates claims are still on appeal, and it is premature to conclude on the merits of the appeal.

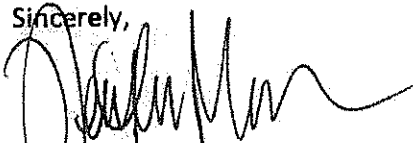
As previously discussed at workshops, and in comment letters, and requested by many Board Members, the economic implications of the many proposed Permit requirements are of critical importance. It is also worth noting that the cost for complying with both the stormwater regulations and TMDL requirements should be carefully considered. This point is highlighted in the March 20, 2012 memo¹¹ from OMB to heads of executive departments and agencies (including USEPA) which clarified Presidential Executive Order 13563. This Order requires the agencies to take into account among other things, and to the extent practicable, the costs of cumulative regulations. This is particularly relevant for this Draft Order where we have the convergence of TMDLs and stormwater regulations. Although we have not had sufficient time to assess the cost for the new stormwater requirements, the County of Los Angeles has completed an analysis (using the Los Angeles County BMP Decision Support System model) to assess the effort required to implement low impact development retrofits throughout Los Angeles County to address all TMDLs and 303(d) listings. This model roughly estimated that, to meet these water quality standards, the area would have to spend between \$17 billion and

¹¹ Cass R. Sunstein, Executive Office of the President, OMB memorandum for the Heads of Executive Departments and Agencies regarding Cumulative Effects of Regulations, March 20, 2012.

\$42 billion. Los Angeles River Watershed Bacteria TMDL could cost up to \$5.4 billion for full, inclusive, implementation costs for that watershed alone for only one pollutant. Even if the Water Quality Funding Initiative passes (and it is far from guaranteed to pass), it would take a full 20 years dedicating the entire fund to the Los Angeles River Bacteria TMDL to pay for these requirements. It would require over 60 years paying for the larger estimate. In the fact sheet, Regional Board staff stated that the TMDL costs were considered during the TMDL adoption process. However, given Executive Order 13563, we would submit that the Board should consider all costs associated with the management of stormwater. With these types of economic implications, it is **critical that this Regional Board and their staff more carefully evaluate comments and provide additional, extended comment periods for these requirements.**

In closing, we thank you for the opportunity to comment on the Draft Order and we look forward to meeting with you to discuss our comments and to explore alternative approaches. However, we must reiterate the need for more time to review and analyze this Draft Order. In spite of the Regional Board staff statement¹² that there has been a myriad of opportunities to present our concerns and comments, we believe otherwise. The LAPG would submit that we have not had an opportunity to voice our concerns to the Regional Board members themselves as we have been limited (in some cases prevented) in responding to questions posed by the Board members during different workshops. Consequently, **we respectfully request that that the Board provide another complete second draft Tentative Order with an additional review period to allow Permittees to have at least a total of 180 days to discuss and review the full document.** We believe it important to review the entire draft Permit to better understand the relationship among the various provisions; this is especially true for the monitoring provision and its relationship to the watershed management program. We also believe that the Regional Board staff will be hard pressed to consider and respond to all the comments that will be submitted on the Draft Order. Thus, it is advantageous to all parties that more time is provided to craft a permit that is implementable and protective of water quality. We request the issues presented in our letter are resolved in a revised Permit draft. . Please feel free to contact me at (626) 932-5577 if you have any questions regarding our comments.

Sincerely,



Heather M. Maloney, Chair
LA Permit Group

Enc. Exhibits XX-XX

cc: LA Permit Group

¹² S. Unger's 7/13/12 letter to H. Maloney and the LA Permit Group.

Exhibit A

LA Permit Group

City of Agoura Hills	City of Gardena	City of Pico Rivera
City of Alhambra	City of Glendale	City of Pomona
City of Arcadia	City of Glendora	City of Redondo Beach
City of Artesia	City of Hawthorne	City of Rolling Hills
City of Azusa	City of Hermosa Beach	City of Rolling Hills Estates
City of Baldwin Park	City of Hidden Hills	City of Rosemead
City of Bell	City of Huntington Park	City of San Dimas
City of Bell Gardens	City of Industry	City of San Gabriel
City of Bellflower	City of Inglewood	City of San Marino
City of Beverly Hills	City of La Verne	City of Santa Clarita
City of Bradbury	City of Lakewood	City of Santa Fe Springs
City of Burbank	City of Lawndale	City of Santa Monica
City of Calabasas	City of Los Angeles	City of Sierra Madre
City of Carson	City of Lynwood	City of South El Monte
City of Claremont	City of Malibu	City of South Gate
City of Commerce	City of Manhattan Beach	City of Torrance
City of Covina	City of Monrovia	City of Vernon
City of Culver City	City of Montebello	City of West Covina
City of Diamond Bar	City of Monterey Park	City of West Hollywood
City of Duarte	City of Paramount	City of Westlake Village
City of El Monte	City of Pasadena	

LA Permit Group Comments on the Draft Order No. R4-2012-XXXX; NPDES Permit NO. CAS004001

Exhibit B:

LA Permit Group Detailed Comments re: Draft Order

Document Name: TMDL Section Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment		Doc. Reference		Section	Comments
No.	Page	Page	Page		
1	General	General	Apr-12	General	Same comment Jul-12
2	17			Findings	The Tentative Order states "... each Permittee shall maintain the necessary legal authority to control the contribution of pollutants to its MS4 and shall include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary." If the MS4/catch basin is owned by the LACFCD, does this mean that the LACFCD needs to control the contribution of pollutants? This is a critical issue that was not addressed in the recent reopening. The reference reach approach and the overriding policy that permittees are not responsible for pollutants outside their control, including natural sources, needs to be included
3	pages 111 - 123 and Attachments K - R			TMDL	Santa Monica Bay Beaches Bacteria TMDL (SMBBB TMDL) is currently being reconsidered. As part of that reconsideration, the summer dry weather targets must be revised to be consistent with the reference beach/anti-degradation approach established for the SMBBB TMDL and with the extensive data collected over that past seven years since original adoption of the SMBBB TMDL. This data clearly shows that natural and non-point sources result in 10% exceedances during dry weather. Data collected at the reference beach since adoption of the TMDL, as tabulated in Table 3 of the staff report of the proposed revisions to the Basin Plan Amendment, demonstrate that natural conditions associated with freshwater outlets from undeveloped watersheds result in exceedances of the single sample bacteria objectives during both summer and winter dry weather on approximately 10% of the days sampled. Thus the previous Source Analysis in the Basin Plan Amendment adopted by Resolution No. 02-004 which stated that "historical monitoring data from the reference beach indicate no exceedances of the single sample targets during summer dry weather and on average only three percent exceedance during winter dry weather" was incorrect and based on a data set not located at the point zero compliance location. Continued allocation of zero summer dry weather exceedances in the proposed Basin Plan Amendment is in direct conflict with the stated intent to utilize the reference beach/anti-degradation approach and ignores the scientifically demonstrated reality of natural causes and non-point sources of indicator bacteria exceedances.
4	pages 111 - 123 and Attachments K - R			TMDL	Continued use of the zero summer dry weather exceedance level will make compliance with the SMBBB TMDL impossible for the Jurisdictional agencies. This is also in conflict with the intent of the Regional Board as expressed in finding 21 of Resolution 2002-022 "that it is not the intent of the Regional Board to require treatment or diversion of natural coastal creeks or to require treatment of natural sources of bacteria from undeveloped areas".
5	pages 111 - 123 and Attachments K - R			TMDL	The SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) was approved by the Regional Board staff and that CSMP should be incorporated into the TMDL monitoring requirements of the next MS4 Permit. The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week, thus it is highly confusing and misleading to refer to "daily monitoring". The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week.

6	pages 111 - 123 and Attachments K - R	TMDL	<p>This discussion in this section devoted to the SMBBB TMDL seems to create confusion regarding the meaning of the terms "water quality objectives or standards," "receiving water limitations," and "water quality-based effluent limitations". Water quality objectives or water quality standards are those that apply in the receiving water. Water Quality Effluent Based Limits apply to the MS4. So the "allowable exceedance days" for the various conditions of summer dry weather, winter dry weather, and wet weather should be referred to as "water quality-based effluent limitations" since those are the number of days of allowable exceedances of the water quality objectives that are being allowed for the MS4 discharge under this permit. While the first table that appears under this section at B.1 (b) should have the heading "water quality standards" or "water quality objectives" rather than the term "effluent limitations".</p> <p>While it makes sense for the Jurisdictional Groups previously identified in the TMDLs to work jointly to carry out implementation plans to meet the interim reductions, only the responsible agencies with land use or MS4 tributary to a specific shoreline monitoring location can be held responsible for the final implementation targets to be achieved at each individual compliance location. An additional table is needed showing the responsible agencies for each individual shoreline monitoring location.</p> <p>The Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4 based on estimates from limited data on existing stormwater discharges which resulted in a waste load allocation for stormwater that is lower than necessary to meet the TMDL targets, in the case of DDT far lower than necessary. EPA stated that "if additional data indicates that existing stormwater loadings differ from the stormwater waste load allocations defined in the TMDL, the Los Angeles Regional Water Quality Control Board should consider reopening the TMDL to better reflect actual loadings." [USEPA Region IX, SMB TMDL for DDTs and PCBs, 3/26/2012]</p> <p>In order to avoid a situation where the MS4 permittees would be out of compliance with the MS4 Permit if monitoring data indicate that the actual loading is higher than estimated and to allow time to re-open the TMDL if necessary, recommend as an interim compliance objective WQBELs based on the TMDL numeric targets for the sediment fraction in stormwater of 2.3 ug DDT/g of sediment on an organic carbon basis, and 0.7 ug PCB/g sediment on an organic carbon basis.</p> <p>Although the Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4, they should be translated as WQBELs in a manner such that watershed management areas, subwatersheds and individual permittees have a means to demonstrate attainment of the WQBEL. Recommend that the final WLAs be expressed as an annual mass loading per unit area, e.g., per square mile. This in combination with the preceding recommendation for an interim WQBEL will still serve to protect the Santa Monica Bay beneficial uses for fishing while giving the MS4 Permittees time to collect robust monitoring data and utilize it to evaluate and identify controllable sources of DDT and PCBs.</p>	<p>In effect the effluent limitations are stricter than the receiving water standards. This is inconsistent with law and creates a situation in which permittees are out of compliance at the effective date of this permit. Please adjust so that limits are consistent with standards and not exceeding standards.</p>
7	pages 111 - 123 and Attachments K - R	TMDL		<p>A table is still needed and should be developed. Perhaps referred to in this section but placed in the Watershed Management Plan and then approved by Executive Officer with the plan.</p>
8	pages 111 - 123 and Attachments K - R	TMDL		<p>Same comment</p>
9	pages 111 - 123 and Attachments K - R	TMDL		<p>Same comment</p>
10	pages 111 - 123 and Attachments K - R	TMDL		<p>Please clarify that this situation would be covered under the new provisions for USEPA established TMDLs opens the door for allowing Permittees to address this through their plans.</p>
11	pages 111 - 123 and Attachments K - R	TMDL	<p>The Machado Lake Trash WQBELs listed in the table at B.3 of Attachment N in the Tentative Order appear to have been calculated from preliminary baseline waste load allocations discussed in the July 11, 2007 staff report for the Machado Lake Trash TMDL, rather than from the basin plan amendment. In some cases the point source land area for responsible jurisdictions used in the calculation are incorrect because they were preliminary estimates and subsequent GIS work on the part of responsible agencies has corrected those tributary areas. In other cases some of the jurisdictions may have conducted studies to develop a jurisdiction-specific baseline generation rate. The WQBELs should be expressed as they were in the adopted TMDL WLAs, that is as a percent reduction from baseline and not assign individual baselines to each city but leave that to the individual city's trash reporting and monitoring plan to clarify.</p>	<p>Same comment</p>

12	pages 111 - 123 and Attachments K - R	TMDL	<p>The WLAs in the adopted Machado Lake Trash TMDL were expressed in terms of percent reduction of trash from Baseline WLA with the note that percent reductions from the Baseline WLA will be assumed whenever full capture systems are installed in corresponding percentages of the conveyance discharging to Machado Lake. As discussed in subsequent city-specific comments, there are errors in the tributary areas originally used in the staff report, but in general, tributary areas are available only to about three significant figures when expressed in square miles. Thus the working draft should not be carrying seven significant figures in expressing the WOBELs as annual discharge rates in uncompressed gallons per year. The convention when multiplying two measured values is that the number of significant figures in the product can be no greater than the minimum number of significant figures in the two underlying values. Thus if the tributary area is known to only three or four significant figures, and the estimated trash generation rate is known to four significant figures, the product can only be expressed to three or four significant figures.</p> <p>Thus there should be no values to the right of the decimal place and the whole numbers should be rounded to the correct number of significant figures.</p>	Same comment
13	pages 111 - 123 and Attachments K - R	TMDL	<p>The Machado Lake Nutrient TMDL provides for a reconsideration of the TMDL 7.5 years from the effective date prior to the final compliance deadline. Please include an additional statement as item C.3.c of Attachment N: "By September 11, 2016 Regional Board will reconsider the TMDL to include results of optional special studies and water quality monitoring data completed by the responsible jurisdictions and revise numeric targets, WLAs, LAs and the implementation schedule as needed."</p>	Same comment
14	pages 111 - 123 and Attachments K - R	TMDL	<p>Table C is not provided in the section on TMDLs for Dominguez Channel and Greater LA and Long Beach Harbors Toxic Pollutants. Please clarify and reference that Attachment D Responsible Parties Table RB4 Jan 27, 12 which was provided to the State Board and responsible agencies during the SWRCB review of this TMDL, and is posted on the Regional Board website in the technical documents for this TMDL, is the correct table describing which agencies are responsible for complying with which waste load allocations, load allocations and monitoring requirements in this VERY complex TMDL. Attachment D should be included as a table in this section of the MS4 Permit.</p>	Partially addressed--the table provided in the Tentative Order is not the detailed Attachment D which clarifies which agencies are responsible for which portions of the TMDL--need to include that table.
15	pages 111 - 123 and Attachments K - R	TMDL	<p>The Dominguez Channel and Greater LA and Long Beach Harbor Waters Toxic Pollutants TMDL provides for a reconsideration of the TMDL targets and WLAs. Please include an additional statement as item E.5 of Attachment N: "By March 23, 2018 Regional Board will reconsider targets, WLAs and LAs based on new policies, data or special studies. Regional Board will consider requirements for additional implementation or TMDLs for Los Angeles and San Gabriel Rivers and interim targets and allocations for the end of Phase II."</p>	Same comment
16	pages 111 - 123 and Attachments K - R	TMDL	<p>City of Hermosa Beach is only within one watershed, the Santa Monica Bay Watershed, and so should not be shown in italics as a multi-watershed permittee</p>	Addressed in Table K-3 of the Tentative Order but not in Table K-2 of the Tentative Order.
17	pages 111 - 123 and Attachments K - R	TMDL	<p>Recommend not listing specific water bodies in E.5.b.i.(1)(c) because then it risks becoming obsolete if new TMDLs are established for trash, or if they are reconsidered. Furthermore, it is not clear why Santa Monica Bay was left out of this list since the Marine Debris TMDL allows for compliance via the installation of full capture devices.</p>	Not addressed, still don't know why Santa Monica Bay Marine Debris was not included in the list at E.5.b.i.(1)(c) but it is listed in E.5.a.ii and Attachment M Section B.
19	pages 111 - 123 and Attachments K - R	TMDL	<p>N/A</p>	Suggest wet weather compliance be partially defined by a design storm.

20	pages 111 - 123 and Attachments K - R	TMDL	N/A	<p>Regional Board staff has incorrectly determined that a WQBEL may be the same as the TMDL. WLA, thereby making it a "numeric effluent limitation." Although numerous arguments may be marshaled against the conclusion, the most compelling of all is the State Water Resources Control Board's clear and repeated reluctance to use numeric effluent limitations.</p> <p>In Water Quality Orders 2001-15 and 2009-0008 the State Board made it clear that: we will generally not require "strict compliance" with water quality standards through numeric effluent limitations, and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards.</p> <p>(Please note that the iterative approach to attain water quality standards applies to the outfall and the receiving water.)</p> <p>More recently, the State Board commented in connection with the draft Caltrans MS4 permit that numeric WQBELs are not feasible as explained in the following provision from its most recent Caltrans draft order:</p> <p><i>Storm water discharges from MS4s are highly variable in frequency, intensity, and duration, and it is difficult to characterize the amount of pollutants in the discharges. In accordance with 40 CFR § 122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits. This Order requires implementation of BMPs to control and abate the discharge of pollutants in storm water to the MEP.</i></p> <p>The State Board's decision not to require numeric WQBELs in this instance appears to have been influenced by among other considerations, the Storm Water Panel Recommendations to the California State Water Resources Control Board in re: <i>The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.</i></p> <p>Same comment</p>
21	pages 111 - 123 and Attachments K - R	Table K-8	Please remove, in its entirety, the Santa Ana River TMDLs	Same comment
22	pages 111 - 123 and Attachments K - R	E.1.C	Permittees under the new MS4 permit (those in LA County) need to be able to separate themselves from Orange County cities. Since the 0.941 kg/day is a total mass limit, it needs to be apportioned between the two counties. Also, the MS4 permit needs to contain language allowing permittees to convert group-based limitations to individual permittee based limitations.	Same comment
23	111	E.2	Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions.	Same comment
24	111	E.2.a.i	N/A	<p>This provision creates confusion and inconsistency with the language in the rest of the permit. By stating that the permittee shall demonstrate compliance through compliance monitoring points, it appears to preclude determining compliance through other methods as outlined in other portions of the permit. This provision does not reference any of the other compliance provisions in the TMDL section, and could therefore be interpreted on its own as a separate compliance requirement. Additionally, the requirement to use the TMDL established compliance monitoring locations regardless of whether an approved TMDL monitoring plan or integrated plan has been developed is not consistent with the goal of integrated monitoring outlined in the permit. This provision would be more appropriate as a monitoring and reporting requirement for the TMDL section with modified language such as "Monitoring locations to be used for demonstrating compliance in accordance with Parts V.I.E.2.d or V.I.E.2.e shall be established at compliance monitoring locations established in each TMDL or at locations identified in an approved TMDL monitoring plan or in accordance with an approved integrated monitoring program per Attachment E Part V.I.C.5 (Integrated Watershed Monitoring and Assessment)."</p>

25	112	E.2.b.iv	<p>For each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance, how is this going to be possible? There is allowed non-storm water discharges, a commingled system, and the LA County region is practically urbanized (impervious landscape). Additionally, a gas tanker on local freeways often discharges onto freeway drains, which connect to MS4 permittee drains - the point here is a private party as the actual discharger should be held responsible and not the MS4 permittee. Lastly, the Construction General Permit cannot establish numeric limitations without the Regional/State Boards clearly demonstrating how compliance will be achieved - the MS4 permit is overly conditioned in terms of achieving compliance and subjects MS4 permittees to violations/enforcement, and given these circumstances, the Boards need to clearly demonstrate how compliance will be achieved.</p>	<p>Same comment</p>
26	112	E.2.b.v.(2)	N/A	<p>This provision should not require that the permittee demonstrate that the discharge from the MS4 is treated to a level that does not exceed the applicable water quality-based effluent limitation. Permittees may achieve the applicable WQBELs through means other than treatment and they should be able to demonstrate that their discharge does not exceed the applicable water quality-based effluent limitation through monitoring or other means than demonstration of treatment.</p>
28	113	E.2.d.i.4.b.	<p>Is this in effect setting a design storm for the design of structural BMPs to address attainment of TMDLs, or is it simply referring to SUSMP/LID type structural BMPs? If it is in effect setting a design storm, there needs to be some sort of exception for TMDLs in which a separate design storm is defined, e.g., for trash TMDLs where the 1-year, 1-hour storm is used.</p>	<p>This is not clarified, but it is still a problem as not all retrofit projects which might be used to address TMDLs may be able to handle the full 85th percentile 24-hour storm, there should be some provision for doing this through a combination of BMPs, e.g., LID plus retrofit.</p>
29	114	E.2.e	<p>Please add the language from interim limits E.2.d.4 a - c and EPA TMDLs to the Final Water Quality Based Effluent Limitations and/or Receiving Water Limitations to ensure sufficient coordination between all TMDLs and the timelines and milestones that will be implemented in the Watershed Management Program.</p>	<p>Same comment</p>
30	116	E.4.a	<p>This provision states "A Permittee shall comply immediately ... for which final compliance deadlines have passed pursuant to the TMDL implementation schedule." This provision is unreasonable. First, various brownfields/abandoned toxic sites exist, some of which were permitted to operate by State/Federal agencies - nothing has or will likely be done with these sites that contribute various pollutants to surface and sub-surface areas. Additionally, this permit is going to require a regional monitoring program - this program will yield results on what areas are especially prone to particular pollutants. Until these results are made known, MS4 Permittees will have a hard time knowing where to focus its resources and particularly, the placement of BMPs to capture, treat, and remove pollutants. For these reasons, this provision should be revised to first assess pollutant sources and then focus on compliance with BMP implementation.</p>	<p>Same comment</p>
31	116-123	E.5	<p>Please clarify that cities are not responsible for retrofitting.</p>	<p>Same comment</p>
32	116-123	E.5.a - c	<p>Recommend not listing specific waterbody/trash TMDLs here, but simply leave the reference to Attachments to identify the Trash TMDLs. Otherwise, this may have to be revised in the future. Again, Santa Monica Bay Marine Debris TMDL was not included in this list, it is unclear whether it was an oversight or intentional?</p>	<p>Same comment</p>
33	116-123	E.5.b.ii.2	<p>Define "partial capture devices", define "institutional controls". Permittees need to have clear direction of how to attain the "zero" discharges which will have varying degrees of calculations regardless of which compliance method is followed. Explain the Regional Board's approval process for determining how institution controls will supplement full and partial capture to attain a determination of "zero" discharge.</p>	<p>Same comment</p>
34	116-123	E.5.b.ii.(4)	<p>MFAC and TMRP should be an option available to the Los Angeles River.</p>	<p>Same comment</p>
35	116-123	E.5.c.i.(1)	<p>For reporting compliance based on Full Capture Systems, what is the significance of needing to know "the drainage areas addressed by these installations?" Unfortunately, record keeping in Burbank is limited to the location and size of City-owned catch basins. A drainage study would need to be done to define these drainage areas. As such, we do not believe this requirement serves a purpose in regards to full capture system installations and their intended function.</p>	<p>Same comment</p>
36	Attachment L	D.3 a - c	<p>Please change the Receiving Water Limitations for interim and final limits to the TMDL approved table. There should be no interpretation of the number of exceedance days based on daily for weekly sampling with, especially with no explanation of the ratio or calculations, and no discussion of averaging. Please revert to the original TMDL document.</p>	<p>The table was adjusted, but did not eliminate the interpretation of number of exceedance days that are not expressly completed in the Santa Clara River TMDL. Remove all interpretation of number of exceedance days other than what has been expressed in the original TMDL number of days of exceedances without interpretation or recalculation.</p>

37	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For the Freshwater portion of the Dominguez Channel: There are no provisions for BMP implementation to comply with the interim goals. The wording appears to contradict Section E.2.d.i.4 which allows permittees to submit a Watershed Management Plan or otherwise demonstrate that BMPs being implemented will have a reasonable expectation of achieving the interim goals.	Same comment
38	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For Greater LA Harbor: Similar to the previous comment regarding this section. The Table establishing Interim Effluent Limitations, Daily Maximum (mg/kg sediment), does not provide for natural variations that will occur from time to time in samples collected from the field. Given the current wording in the proposed Receiving Waters Limitations, even one exceedance could potentially place permittees in violation regardless of the permittees level of effort. Reference should be made in this section to Section E.2.d.i.4 which will provide the opportunity for the Permittee to develop BMP-base compliance efforts to meet interim goals.	Same comment
39	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For the freshwater portion of the Dominguez Channel: the wording should be clarified. Section 5.a states that "Permittees subject to this TMDL are listed in Attachment K, Table K-4." Then the Table in Section E.2.b Table "Interim Effluent Limitations-- Sediment", lists all permittees except the Fresh water portion of the Dominguez Channel. For clarification purposes, we request adding the phrase to the first row. "Dominguez Channel Estuary (below Vermont)"	Same comment
40	Attachment O, Page 3	C	For the LA River metals. Some permittees have opted out of the grouped effort. This section needs to detail how these mass-based daily limitations will be reapportioned.	Same comment
41	Attachment O, Page 7	D.4	Why are "Receiving Water Limitations" being inserted here? None of the other TMDLs seem to follow that format.	Same comment
42	Attachment P	TMDLs in the San Gabriel River WMA	It is the permittees understanding that the lead impairment of Reach 2 of the San Gabriel River has been removed. It should be removed from the MS4 permit.	Same comment

Document Name: **Watershed Management Program Section Draft Tentative Order - July 2012**

Agency/Reviewer: **LA Permit Group**

Comment No.	Doc. Reference		Comments
	Page	Section	
1	General	General	<p>Apr-12 While it may be appropriate to have an overall design storm for the NPDES Permit and TMDL compliance, this element seems to address individual sites. Recommend developing more prominently in the areas of the Permit that deals with compliance that the overall Watershed Management Program should deal with the 85th percentile storm and that beyond that. Permittees are not held responsible for the water quality from the much larger storms. However, requiring individual projects to meet this standard is limiting as there may be smaller projects implemented that individually would not meet 85th percentile, but collectively would work together to meet that standard. Please clearly indicate cities are only responsible for the 85th percentile storm for compliance and that individual projects may treat more of less than number.</p> <p>Jul-12 Changes were made but it is unclear that the overall program would be collectively only held to the 85th percentile storm if working in multiple areas, and individual sites only if the Watershed Management Program states that individual sites would be responsible.</p>
2	46	Process	<p>Please clarify that Permittees will only be responsible for continuing existing programs and TMDL implementation plans during the interim 18 month period while developing the Watershed Management Program and securing approval of those programs.</p> <p>Same comment</p>
3	46-47	Table 9 and Process	<p>Please allow 24 months for development of the Watershed Management Program to provide sufficient time for calibration and the political process to adopt these programs.</p> <p>Same comment. However, there could be a phased approach in which a permittee could submit early actions within this timeline, while more time is offered for the resource intensive aspects.</p>
4	46-53	various	<p>The Table (TBD) on page 2 states implementation of the Watershed Program will begin upon submittal of final plan. Page 11, section 4 Watershed Management Program implementation states each Permittee shall implement the Watershed Management Program upon approval by the Executive Officer. Page 13 section iii says the Permittee shall implement modifications to the storm water management program upon acceptance by the Executive Officer. All three of these elements should be consistent and state upon approval by the Executive Officer. The item on page 13 should be changed to reflect the Watershed Management Program, or clarify that the Watershed Management Program is the storm water management program.</p> <p>Table 9 and Watershed Management Implementation are still inconsistent. The table says submittal and the Watershed Management Program implementation states upon approval. Please make these consistent</p>
5	47	Program Development	<p>Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions.</p> <p>Same comment</p>
6	48	3.a.ii	<p>Pollutants in category 4 should not be included in this permit term, request elimination of any evaluation of category 4. Request elimination of category 3, as work should focus on the first two categories at this point</p> <p>Thank you for removing category 4. Category 3 puts a burden on cities during this permit cycle. In the next permit term, when permittees have a better understanding of sources and location of the high priority pollutant additional actions may be warranted. At this time including category 3 adds an investigative burden that is unwarranted given the substantial increase in requirements and monitoring that are already included in this draft tentative order.</p>
7	52	Reasonable Assurance Analysis E.2.b.iii	<p>Reasonable assurance analysis and the prioritization elements should also include factors for technical and economic feasibility</p> <p>Same comment</p>
8	112		<p>For the "group of Permittees" having compliance determined as a whole, this should only be the case if the group of Permittees have moved forward with shared responsibilities (MOAs, cost sharing, a Watershed Management Program). It would not be fair to have one entity not be a part of the "group" and be the main cause of exceedances/violations.</p> <p>in the Tentative Order, permittees must notify the Regional Board 6 months after the Order's effective date on whether it plans to participate in the development of a Watershed Management Program. Given this, a sub-watershed will not know whether all permittees will participate or not. It should also be noted that allowed non-stormwater discharges and other NPDES permit discharges may be the cause of exceedances/violations and not the "group of permittees."</p>

Document Name: Receiving Water Limitation Section Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment No.	Doc. Reference		Comments
	Page	Section	
1	37-38	All	<p>Apr-12</p> <p>Currently the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. It is imperative that the Regional Board works with the State Board on this very important issue.</p> <p>Jul-12</p> <p>There are several NPDES Permits, including the Caltrans Permit and others, that adjust the Receiving Water Limitation language in response to new interpretations. Currently, the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. LASP has provided the Regional Board staff with sample language. It is imperative that the Regional Board works with the State Board on this very important issue. It is critical that the LA draft tentative order Receiving Water Limitation language be adjusted to ensure cities working in good faith are not subject to enforcement and third party litigation.</p>

Document Name: Additional Sections Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment	Doc. Reference	Comments
<p>No. 1</p>	<p>Page 13-26 Section Findings</p>	<p>several related</p>
		<p style="text-align: right;">Jul-12</p> <p>Please add findings regarding the iterative process.</p> <p>The iterative process is a process of implementing, evaluating, revising, or adding new BMPs to attain water quality standards, including total maximum daily load (TMDL) waste load allocations (WLAs). The State Water Resources Control Board (State Board) has affirmed, in several precedential water quality orders (including WQ 99-05 and 2001-15), the inclusion of the iterative process in MS4 permits. As the State Board noted in WQ 2001-15:</p> <p>This Board has already considered and upheld the requirement that municipal storm water discharges must not cause or contribute to exceedances of water quality objectives in the receiving water. We adopted an iterative procedure for complying with this requirement, wherein municipalities must report instances where they cause or contribute to exceedances, and then must review and improve BMPs so as to protect the receiving waters.</p> <p>The iterative process goes hand-in-hand with the Receiving Water Limitation provision of this order, which is intended to address a water quality standard exceedance. An MS4 permit is a point source permit, which is defined by §40 CFR 122.2 to mean outfall or end-of-pipe. Attainment of a water quality standard in stormwater discharge is achieved in the effluent or discharge from the MS4 through the implementation of BMPs contained in a Stormwater Quality Management Plan (SQMP). If a water quality standard is frequently exceeded as determined by outfall monitoring relative to an ambient condition of the receiving water (during the 5-year term of the Order) the permittee shall be required to propose better-tailored BMPs to address the exceedance. The process includes determining (1) if the exceedances are statistically significant and if so, would require the permittee to (2) identify the source of the exceedance; and (3) propose new or intensified BMPs to be implemented in the next MS4 permit – unless the Executive Officer determines that a more immediate response is required.</p> <p>(Continued from previous page) The iterative process does not apply to non-stormwater discharges. Section 402(p)(3)(B)(ii) of the Clean Water Act only prohibits non-stormwater discharges to the MS4 and not from it as is the case with stormwater discharges. This is because Congress set two standards for MS4 discharges: one stormwater and one for non-stormwater. As noted in WQO 2009-008, the Clean Water Act and the federal storm water regulations assign different performance requirements for storm water and non-storm water discharges. These distinctions in the guidance document, the Clean Water Act, and the storm water regulations make it clear that a regulatory approach for storm water - such as the iterative approach we have previously endorsed - is not necessarily appropriate for non-storm water.</p>

2	24 and Attachment F, Pages 146-149	Unfunded Mandates Section of Fact Sheet and Permit	several related	<p>it is incorrect to assert an outcome on the unfunded mandates issue in a permit; this has nothing to do with protecting water quality. The unfunded mandates process has not completed a process and these assertions are opinion. Since the Fact Sheet is part of the permit, remove this section. There are many errors and incorrect assumptions, especially around the level of effort required for this permit when compared to the current permit, and the economic issues that are incorrect.</p>
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Document Name: Minimum Control Measures Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment No.	Doc. Reference		Comments
	Page	Section	
1	General	General	<p>Jul-12</p> <p>It is appropriate to have an exemption for a Permittee from a violation of RWL and or WQBELs caused by a non-stormwater discharge from a potable water supply or distribution system not regulated by an NPDES permit but required by state or federal statute; this should clearly apply to all NPDES permits issued to others within, or flow through, the MS4 permittees jurisdiction. We would request that also included in this category should be emergency releases caused by water line breaks which are not necessary, but are unexpected and have to be dealt with as an emergency. MS4 permittees should be exempt from RWL or WQBEL violations associated with any permitted NPDES discharges that are effectively authorized by LARWQCB under the Clean Water Act.</p> <p>Since it could take 6 months for an agency to decide if they want to join in the development of a Watershed Management Plan or just modify their current Stormwater Management Program to comply with the new permit MCMs, the implementation of the new MCMs should follow this timeline. In the interim the permittees will be required to continue implementing their current Stormwater Management Program.</p>
2	General	General	<p>FRB staff proposed language requires the permittees to "prohibit non-stormwater discharges through the MS4 to receiving waters" except where authorized by a separate NPDES permit or conditionally. This prohibition is inconsistent with legal authority provisions in the federal regulations since 40 CFR 122.26(p)(1)(ii) which requires legal authority to control discharges to the MS4 but not from the MS4. Additionally, with respect to the definition of an illicit discharge at 40 CFR 122.26(b)(2), an illicit discharge is defined as "a discharge to the MS4 that is not composed entirely of stormwater". In issuing its final rulemaking for stormwater discharges on Friday, November 16, 1990(1), USEPA states that:</p> <p>"Section 405 of the WQA alters the regulatory approach to control pollutants in storm water discharges by adopting a phased and tiered approach. The new provision phases in permit application requirements, permit issuance deadlines and compliance with permit conditions for different categories of storm water discharges. The approach is tiered in that storm water discharges associated with industrial activity must comply with sections 301 and 402 of the CWA (requiring control of the discharge of pollutants that utilize the Best Available Technology (BAT) and the Best Conventional Pollutant Control Technology (BCT) and where necessary, water quality-based controls), but permits for discharges from municipal separate storm sewer systems must require controls to the maximum extent practicable, and where necessary water quality-based controls, and must include a requirement to effectively prohibit non-stormwater discharges into the storm sewers."</p> <p>This is further illuminated by the section on Effective Prohibition on Non-Stormwater Discharges[2]:</p> <p>"Section 402(p)(3)(B)(ii) of the amended CWA requires that permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers. Based on the legislative history of section 405 of the WQA, EPA does not interpret the effective prohibition on non-storm water discharges to municipal separate storm sewers to apply to discharges that are not composed entirely of storm water, as long as such discharge has been issued a separate NPDES permit. Rather, an 'effective prohibition' would require separate NPDES permits for non-storm water discharges to municipal storm sewers"</p> <p>The rulemaking goes on to say that the permit application:</p> <p>"requires municipal applicants to develop a recommended site-specific management plan to detect and remove illicit discharges (or ensure they are covered by an NPDES permit) and to control improper disposal to municipal separate storm sewer systems."</p> <p>Nowhere in the rulemaking is the subject of prohibiting discharges from the MS4 discussed. Furthermore, USEPA provides model ordinance language on the subject of discharge prohibitions: http://www.epa.gov/lowow/NPS/ordnance/mol5.htm. Section VII Discharge Prohibitions of this model ordinance provides discharge prohibition language as follows:</p> <p>"No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water."</p> <p>Thus we recommend that staff eliminate the "from" language at both Part III.A.1.a. and Part III.A.2.</p> <p>The conditional exemption of streets/sidewalk water is inconsistent with the requirement in the industrial/commercial MCM section that street washing must be diverted to the sanitary sewer. Sidewalk water should definitely be conditionally exempt, but so also should patios and pool deck washing. If street washing has to be diverted to the sanitary sewer for industrial/commercial facilities, then it should for all facilities and so should parking lot wash water as they are similar in their pollutant loads.</p> <p>Enforcing NPDES permits issued for the various NSWDS referenced in this table should be the responsibility of the State/Regional Board, not the MS4 permittee. Therefore, it is inappropriate to include a condition that places a responsibility on the MS4 permittee to ensure requirements of NPDES permits are being implemented or effective in order for the pertaining NSWSD category to be exempt. Proper enforcement of the various NPDES permits mentioned in this table should ensure impacts from these discharges are negligible.</p>
3	26	A.	
4	28	A.2.b.vi	
5	33-36, Table 8	Discharge Prohibitions	

6	39	A.2.a.i	<p>Staff proposal states: "Control the contribution of pollutants to its MS4 from stormwater discharges associated with industrial and construction activity and control the quality of stormwater discharged from industrial and construction sites."</p> <p>It appears the intent of this language is to transfer the State's inspection and enforcement responsibilities to municipalities through the MS4 permit. When a separate general NPDES permit is issued by the Regional or State Board it should be the responsibility of that agency collecting such permit fees to control the contribution of pollutants, not MS4 permittees."</p>
7	39	A.2.a.vii	<p>Staff proposal states: "Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees."</p> <p>The intention of this statement is unclear and should be explained, and a definition of "shared MS4" should be provided. How would an inter-agency agreement work with an upstream and downstream agency? This is not practical - this agreement should have been done before the interconnection of MS4 systems occurred. An example of this agreement should be provided within the Permit. The permittee will not agree to the responsibility of an exceedance without first having evidence of the source and its known origin (in other words, an IC/ID is a private "outprint" and not the cause of the City).</p>
8	39	A.2.a.xi	<p>Staff proposal states: "Require that structural BMPs are properly operated and maintained."</p> <p>MS4 agencies can control discharges through an illicit discharge program, and conditioning new/redevelopment to ensure mitigation of pollutants. Unless the existing development private property owners/tenants are willing or in the process of retrofitting its property, the installation and O&M of BMPs is not practical and cannot be legally enforceable against an entity that does not own or control the property, such as a municipal entity.</p>
9	39	A.2.a.xii	<p>Staff proposal states: "Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4."</p> <p>It is difficult, if not impossible, to accurately quantify the exact effectiveness of a particular set of BMP's in reducing the discharge of pollutants. Some discharges may be reduced over time given reductions in industrial activity, population in a particular portion of the community feeding into the MS4, or for other reasons not directly related to implementation of structural BMPs. Given that the County of LA is generally urbanized and thus impervious, a leathargic economic climate (meaning development and redevelopment is not occurring in an expeditious manner), and that several pollutants do not have known BMPs effective at removing/reducing the content (i.e., metals, toxics, pesticides), the effectiveness of BMPs should not be required and instead should only be used for research, development, and progress of BMP testing.</p>
10	40	A.2.b	<p>Staff proposal states: "Permittee must submit a statement certified by its chief legal counsel that the Permittee has the legal authority within its jurisdiction to implement... Each permittee shall submit this certification annually..."</p> <p>To sign this statement, chief counsel will have to analyze this 500 page Permit, analyze the municipal code, and prepare a statement as to whether actions can be commenced and completed in the judicial system. An annual certification is redundant and unnecessary in addition to being extraordinarily costly. At most, legal analysis should be done once during the Permit term. Otherwise, please delete this requirement.</p>
11	40	A.3	<p>The staff proposal includes a section on Fiscal Resources. Most MS4's do not have a storm water quality funding source, and even those that do have a funding source are not structured to meet the requirements of the proposed MS4 requirements (for instance, development funds may be collected to construct an extended detention basin, but not for street sweeping, catch basin cleaning, public right-of-way structural BMP's, etc).</p>
12	40	A.3.a	<p>Staff proposal states: "Each Permittee shall exercise its full authority to secure the fiscal resources necessary to meet all requirements of this Order"</p> <p>This sentence has no legally enforceable standard. What exactly does the exercise of "full authority" mean when the exercise of a city's right to tax comes with consequences and no guarantee of success? Municipal entities must adjust for a variety of urgent needs, some federally mandated in a manner that cannot be ignored. So, if we seek the fiscal resources to fund the programs required in the permit and the citizens say "No", then a municipality will have a limited ability to comply with "all requirements of this Order". Can the language be changed to state: "Each permittee shall make its best efforts given existing financial and budget constraints to secure fiscal resources necessary to meet all requirements of this Order"?</p>
13	40	A.3.c	<p>Staff proposal states: "Each permittee shall conduct a fiscal analysis... to implement the requirements of this Order."</p> <p>Most MS4's do not have adequate funding to meet all requirements of the Tentative MS4 Permit. A Permit requirement to secure funding is overreach. Please delete this section.</p>
14	58	D.4.a.i.(2)	<p>Staff proposal states: "To measurably change the waste disposal and storm water pollution generation behavior of target audiences..."</p>
15	60	D.4.d.i.(2),(b)	<p>Define the method to be used to measure behavior change. As written, this requirement is vague and open to interpretation.</p> <p>Staff proposal states: "... including personal care products and pharmaceuticals"</p>
16	60	D.4.d.i.(3)	<p>The stormwater permit should pertain only to stormwater issues. Pharmaceuticals getting into waters of the US are typically a result of waste treatment processes. All references to pharmaceuticals should be removed from this MS4 permit.</p> <p>The Regional Board assumes that all of the listed businesses will willingly allow the City to install displays containing the various BMP educational materials in their businesses. If the businesses do allow the installations then the City must monitor the availability of the handouts because the business will not monitor or keep the display full or notify the City when the materials are running out. If the business will not allow the City to display the educational material must we document that denial? Will that denial indicate that the City is not in compliance?</p>
17	63-66	D.5.d-f	<p>These sections pertain to inspecting critical source facilities where it appears the intent is to transfer the State's Industrial General Permit inspection and enforcement responsibilities to municipalities through the MS4 permit. We request eliminating these sections OR revise to exclude all MS4 permittee responsibility for NPDES permitted industrial facilities.</p>

19	D.6.a.i.(3)	The stated objective of mimicking the predevelopment water balance is not consistent with the requirement that the entire design storm be managed onsite. Please consider allowing subtracting the predevelopment runoff from the design volume or flow.
20	D.6.b.ii.(1)(a)	Please clarify whether this paragraph applies to what is existing on the site or what is being redeveloped.
21	D.6.c.i.(2)(b)	Consider removing the "whichever is greater" wording. The two methods are considered equivalent and the 85 th percentile was calculated to be the 0.75-inch for downtown Los Angeles. Currently, the 0.75-inch storm criterion has been used throughout the County for uniformity. While requiring the 85 th percentile to be used instead appears more technically appropriate, requiring calculating both criteria and using the greater value appears punitive.
22	D.6.c.i.(4)	Consider deleting this sentence since it is redundant with Item VI.D.6.c.1.1 and green roofs are not feasible not only based on the provisions of this order but also due to regional climate and implementability considerations.
23	D.6.c.ii.(2)	Add "lack of opportunities for rainwater use" as one of the technical infeasibility criteria to acknowledge the fact that most of the types of development projects cannot utilize the captured volume of water.
24	D.6.c.iii.(1)(b)(ii)	The requirement for raised underdrain placement to achieve nitrogen removal is inconsistent with standard industry designs and is based on limited evidence that this change will improve nitrogen removal. Furthermore, by raising the underdrain, other water quality problems may result such as low dissolved oxygen and bacterial growth due to the septic conditions that will be created.
25	D.6.c.iii.(2)(b)	The requirement to provide treatment for the project site runoff when offsite mitigation is provided is punitive and unfair considering that an alternative site needs to be retrofitted to retain the equivalent volume. Please consider removing the on-site requirement when mitigation occurs in an offsite location.
26	D.6.c.iii.(4)	The conditions listed for offsite projects are overly restrictive. Also, considering legal and logistical constraints regarding offsite mitigation, this alternative is not very feasible.
27	Table 11	The concept of establishing benchmarks for post construction BMPs was initially developed in the 2009 Ventura MS4 permit. However there is a significant different between the permits. The Ventura County's NPDES MS4 permit requires the project developer to determine the pollutant of concern(s) for the development project and use this pollutant as the basis for selecting a top performing BMP. In the case of the Draft Order, there is no determination of the pollutant of concern for the development project. Instead post construction BMPs must meet all the benchmarks established in Table 11. Unfortunately, no one traditional post construction BMP (non-infiltration BMP's) is capable of meeting all the benchmarks and thus the developer will not be able to select a BMP. We recommend that provision VI.D.6.c.iv.(1)(a) (page 74) be modified so that the selection of post construction BMPs is consistent with the Ventura permit and is based on the development site's pollutant of concern(s) and the corresponding top performing BMP(s) that can meet the Table 11 benchmarks.
28	D.6.c.v.(1)(a)	Erosion Potential (Ep) is not a widely used term in our region, and may not be the most appropriate term to be used as an indicator of the potential hydromodification impacts.
29	D.6.c.v.(1)(a)	The requirement for development of a new Interim Hydromodification Control Criteria is unnecessary considering there is already peak storm control requirements in the existing MS4 Permit and that the State Water Board is finalizing the statewide Hydromodification Policy.
30	D.6.c.v.(1)(c)	The requirement to retain on site the 95 th percentile storm is excessive and inconsistent with all other storm design parameters that appear in this order. It may also not be an appropriate storm in terms of soil deposits for the soil deprived streams such as Santa Clara Creek. Again, consider referring to the statewide policy for a consistent and technical basis of the hydromodification requirements.
31	D.6.d.i.1	The requirement of 180 days for the "Local Ordinance Equivalence" may be difficult to be met due to the typical processing and public review period for changes to local municipal codes. Consider revising this provision to require immediate start of this effort instead.
32	D.7.a.iii	MEP should be changed to BAT and BCT for consistency with the State's General Construction Permit (GCASP).
33	D.7.d	Consider introducing a minimum threshold for construction sites such as those for grading permits. As proposed, minor repair works or trivial projects will be considered construction projects and will unnecessarily be subject to these provisions.
34	Table 12	Some of the listed BMPs will not be applicable for all construction sites. Consider replacing the title of the Table 12 to "Applicable Set of BMPs for Construction Sites"
35	D.7.e-j	All these provisions refer to construction sites of greater than one acre. These sites are subject to the General Construction Permit provisions and within the authority of the State agencies. Towards ensuring compliance with these regulations, the State is collecting a significant fee that covers inspection and tracking of these facilities. We are disputing the need to establish an unnecessary parallel enforcement scheme for these sites. This is consistent with the RWQCB member(s) voice at one of the workshops.
36	D.7.g.1	Refer to the State's GCASP and its SWPPP requirements to avoid delacy.
37	D.7.g.ii.(9)	There is no need to introduce a new term/document of Erosion and Sediment Control Plan for construction sites that are already subject to GCASP's SWPPP requirements.
38	Table 13	Delete. This table is the same as Table 12.
39	Table 17	The suggested inspections could not possibly be accommodated based on current resources because of the concurrent need to visit all sites. However, if the GCASP funding is transferred for locally-based enforcement, an increase number of inspections may be accommodated.
40	D.7.ii.(2)(a)	Consider deleting this requirement as being unnecessary. The placement of BMPs may not be needed based on the season of construction and the planned phases.
41	D.8.d	If there is a specific pollutant to address, retrofitting or any other BMP would best be accomplished through a TMDL, which is for the Permittees to determine rather than a prescribed blanket approach. As written, this is too broad of a requirement with unknown costs that is attempting to solve a problem before there is a problem. Please delete VI.D.8.d.
42	D.8.d.1	Staff proposal states: "Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.8.D... The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards." This process would require land acquisition, a feasibility analysis, no impacts to existing infrastructure, proper soils, and support of various interested stakeholders. Additionally, if a property or area is being developed/redeveloped, retrofitting the site for water quality purposes makes sense, but not for an area where no development/redevelopment is planned. Finally, the LID provisions have already included provisions for off-site mitigation, in which we recommend that regional water quality projects be considered in lieu of local-scale water quality projects that will prove difficult to upkeep, maintain, and replace, let alone have existing sites evaluated as feasible. For these reasons, this requirement should be removed.

43	95	D.8.d.v	Any retrofit activities should be the result of either an illicit discharge investigation or TMDL monitoring follow-up and will need to be addressed on a site-by-site basis. A blanket effort as proposed in a highly urbanized area is simply not feasible at this time.
44	96	D.8.e.ii	Staff proposal states: "Each Permittee shall implement the following measures for...flood management projects"
45	102	D.8.h.vii.(1)	Flood management projects need to be clearly defined. This requirement appears to be an "end-run" around the lack of catch basin structural BMPs in areas not covered by Trash TMDLs. The requirement has the potential to be extraordinarily economically burdensome. If an area is NOT subjected to a Trash TMDL, then the need for any mitigation devices is baseless. The MS4 permit requirements should not circumvent nor minimize the CWA 303(d) process.
46	103	D.8.h.ix	Staff proposal requires: "Infiltration from Sanitary Sewer to MS4 / Preventive Maintenance..."
47	106-110	D.9	The State Water Board has implemented a separate permit for sewer maintenance activities. Additional sewer maintenance requirements are redundant and unnecessary. Please delete this requirement.
48	107	D.9.b.i	A definition of "outfall" is required for clarity. An "outfall" for purposes of "non-stormwater outfall-based monitoring program" should be defined as "major outfall" pursuant to Clean Water Act 40 CFR 122.26. Please revise each mention of "outfall" to read "major outfall" when discussing "non-stormwater outfall-based monitoring program".
49	107	D.9.b.iii.(1)	Please revise the proposed language to "Permittee/Permittees shall develop written procedures for conducting investigations to identify the source of suspected illicit discharges, including procedures to eliminate the discharge once source is located." It is not known if a discharge is illicit until the investigation is completed. "Illicit discharges suspected of being sanitary sewage... shall be investigated first." ICID inspectors should be allowed to make the determination of which event should be investigated first. For example, a toxic waste spill or a truck full of gasoline spill should take precedence over a sewage spill. This requirement should be amended to the "most toxic or severe threat to the watershed" shall be investigated first.
50	Attachment A	Definitions	The Definition of: "Development", "New Development" and "Re-development" should be added. The definitions in the existing permit should be used. "Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety. "New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision. "Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint, addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety. The last of the three "routine maintenance" activities listed above should exclude projects related to existing streets since typically you are not changing the "purpose" of the street to carry vehicles and should not be altered. The bioinfiltration definition limits the systems that allow incidental infiltration. Many municipal ordinances and established engineering practices will not allow even incidental infiltration if the planter boxes are located adjacent to a building structure. Thus, this definition will exclude the most common types of planter boxes which logically have to be placed next to the building to collect roof runoff. For this reason, consider allowing bioinfiltration to include planter boxes without incidental infiltration since they may be the only applicable BMPs. Some small cities do not have digital maps. In the "General" category of Section 11, please provide a 1 year time schedule for cities to create digital maps OR provide the municipality the ability to develop comprehensive maps of the storm sewer system in any format. Omit the comment, "Each mapped MS4 outfall shall be located using geographical positioning system (GPS) and photographs of the outfall shall be taken to provide baseline information to track operation and maintenance needs over time." This requirement is cost prohibitive and of little value because many City outfalls are underground and could not be accurately located or photographed. Photographs of outfalls in channels have little value since data required is already included on "As-Built" drawings. Geographic coordinates can easily be obtained using Google Earth or existing GIS coordinate systems.
51	Attachment A, Page 1	Definitions	"The contributing drainage area for each outfall should be clearly discernible..." The scope of this requirement would involve thousands of records of drainage studies. The Regional Board should be aware that this requirement would be very labor intensive, time consuming, and very costly.
52			Storm drain maps should show watershed boundaries which by definition provide the location and name of the receiving water body. Please revise (3) to read "The name of all receiving water bodies from those MS4 major outfalls identified in (1)."
53			The LA Permit Group proposes "non-stormwater outfall-based monitoring program" to be flow based monitoring. Please revise item (4) of 11.c.i. to read "(4) monitoring flow of unidentified or authorized non-stormwater discharges, and..."
54			"Monitoring of unknown or authorized discharges" "Authorized" discharges are exempted or conditionally exempted for various reasons. Monitoring authorized discharges is monitoring for the sake of monitoring and offers no clear goal or water quality benefit. Please delete this requirement. If the source of a discharge is unknown, then monitoring may be used as an optional tool to identify the culprit.
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[1] 55 FR 47980-01 VI.G.2. Effective Prohibition on Non-Stormwater Discharges
[2] 55 FR 47980-01 VI.G.2. Effective Prohibition on Non-Stormwater Discharges

Document Name: Attachment E - Monitoring and Reporting Program Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment No.	Doc. Reference		Comments
	Page	Section	
1	Multiple	Multiple	The use of the HUC-12 watershed for limits is a good start but there needs to be some flexibility in its use to insure that the HUC-12 truly reflects the actual watershed boundary.
2	Multiple	Multiple	The rain gages to be used for determining a wet versus dry weather day should be selected by the agencies and approved by the Regional Board. Since monitoring plans will be on a regional basis the use of 50% of County rain gages in a watershed may not be necessary. Plus, predictions do not necessarily use County rain gages.
3	Attachment E, Page 3	II.A.1	Omit as a primary objective to assess the "biological impacts" of discharges from the MS4. The MS4 Permit is to regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to assess biological impacts of discharges and to set water quality regulations to prevent adverse biological impacts. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
4	Attachment E, Page 4	II.E.1	Monitoring requirements relative to MS4 permits are limited to effluent discharges and the ambient condition of the receiving water, as §122.22(C)(3) indicates: <i>The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameters continues to attain water quality standards.</i> The only definition of "ambient" monitoring is defined by SWAMP protocol as being 72 hours after a storm event. Regarding monitoring purposes "b" and "c" assessing trends in pollution concentrations should be: (1) limited to ambient water quality monitoring; and (2) Regional Board's surface water ambient monitoring program (SWAMP) should be charged with this responsibility. MS4 permittees fund SWAMP activities through an annual surcharge levied on annual MS4 permit fees. <i>Recommended Corrective Action:</i> Clarity that RWL monitoring is only in the ambient condition as defined by SWAMP and that ambient monitoring is performed as part of the SWAMP and is not the responsibility of MS4 permittees.
5	Attachment E, Page 4	II.E.1.c	Omit item c. The MS4 Permit is to regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to "Determine whether the designated beneficial uses are fully supported as aquatic toxicity and bio-assessment monitoring." This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
6	Attachment E, Page 4	II.E.2.a	Outfall monitoring for stormwater for attainment of municipal action levels (MALs) would be acceptable were it not for their purpose. MALs represent an additional monitoring requirement for non-TMDL pollutants. MALs should really be used to monitor progress towards achieving TMDL WLAs that are expressed in the receiving water. Instead, Regional Board staff has chosen to create another monitoring requirement, without regard for cost or benefit to water quality or to permittees. Non-TMDL pollutants should not be given special monitoring attention until it has been determined that they pose an impairment threat to a beneficial use. Such a determination needs to be done by way of ambient monitoring performed by the Regional Board SWAMP. The resulting data could then be used to develop future TMDLs, if necessary. Furthermore, many of the MAL constituents (both stormwater and non-storm water) listed in Appendix G, are included in several TMDLs such as metals and bacteria. This is, of course, a consequence of the redundancy created by two approaches that are intended to serve the same purpose: protection of water quality. <i>Recommended Correction:</i> Either utilize MALs, in lieu of numeric WQBELs, to measure progress towards achieving TMDL WLAs expressed in the receiving water or eliminate MALs entirely.
7	Attachment E, Page 4	II.E.3.a	Regarding "a", this requirement is redundant in view of the aforementioned MALs and in any case is not authorized under federal stormwater regulations. 402(b)(6)(ii) of the Clean Water Act only prohibits discharges to the MS4 (streets, catch basins, storm drains and intra MS4 channels), not through or from it. This applies to all water quality standards, including TMDLs. Nevertheless, compliance with dry weather WQBELs can be achieved through BMPs and other requirements called for under the illicit connection and discharge detection and elimination (ICDDDE) program, or requiring impermissible non-stormwater discharges to obtain coverage under a permit issued by the Regional Board. <i>Recommended Correction:</i> Delete this requirement and specify compliance with dry weather WLAs, expressed in ambient terms, through the implementation of the IC/DD program.
8	Attachment E, Page 4	II.E.3.b	With regard to "b", see previous responses regarding MALs and the limitation of the non-stormwater discharge prohibition to the MS4.
9	Attachment E, Page 4	II.E.3.c	<i>Recommended Correction:</i> Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4; and determine whether MALs or TMDLs are to be used to protect receiving water quality. Regarding "c", as mentioned, non-stormwater discharges cannot be applied to receiving water limitations because they are only prohibited to the MS4, not from or through it. <i>Recommended Correction:</i> Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4.

10	Attachment E, Page 4	III.E.4	<p>Omit Item 4. Monitoring of Development/Re-development BMPs is the responsibility of the Developers. Requirements for monitoring Developer BMPs should be part of Section VI.D.6. <i>Planning and Land Development Program</i> and the responsibility of the Developer.</p> <p>The purpose of this requirement is not authorized under federal stormwater regulations as it relates to monitoring. Requiring such monitoring is premature given the absence of outfall monitoring in the current and previous MS4 permits that would characterize an MS4's pollution contribution relative to exceeding ambient water quality standards. There is nothing in federal stormwater regulations that require monitoring on private or public property. Monitoring, once again, is limited to effluent discharges at the outfall and to ambient monitoring in the receiving water.</p> <p>Beyond this, monitoring for BMP effectiveness poses a serious challenge to what determines "effectiveness" -- effective relative to what standard? It is also not clear how such monitoring is to be performed.</p> <p><i>Recommended Correction:</i> Delete this requirement.</p> <p>Omit Item 5. The MS4 Permit is to regulate discharges to receiving water. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to conduct Regional Studies for Southern California Monitoring Coalition, bio-assessment and Pyrethroid pesticides. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.</p> <p>Requiring 65 jurisdictions to conduct regional monitoring is duplicative and inefficient and should be conducted by a Regional authority.</p> <p>Regional studies also lie outside the scope of the MS4 permit. However, because federal regulations require ambient monitoring in the receiving water, a task performed by the Regional Board's SWAMP, regional watershed monitoring for aforementioned target pollutants can be satisfied through ambient monitoring. This can be accomplished with little expense on the part of permittees by: (1) using ambient data generated by the Regional Board SWAMP; (2) re-setting the County's mass emissions stations to collect samples 2 to 3 days following a storm event (instead of using a flow-based sampling trigger); and (3) using any data generated from existing coordinated monitoring programs (e.g., Los Angeles River metals TMDL CMP), provided that the data is truly ambient.</p>
11	Attachment E, Page 5	III.E.5	<p>Omit Items F. & G. Specifying Sampling Methods and Analytical Procedures in the permit adds unnecessary liability for Cities for work that is already described in USEPA Protocols and per approved TMDLs. These items should be combined and state to follow USEPA Protocols or per approved TMDLs.</p> <p>There is a typo for Item 3. Item 3. should read "...requirements identified in Part XVIII.A.5. and Part XVIII.A.7 of this MRP."</p> <p>More time is needed to prepare Coordinated Integrated Monitoring Plans due to the number of agencies involved. Since existing monitoring programs will proceed as Coordinated Integrated Monitoring Plans are being prepared, then there is no need for accelerated schedules. Revise Item 1. to provide twelve (12) months for each Watershed Group to submit a Memorandum of Understanding to work with other agencies for a Coordinated Integrated Monitoring Plan. A letter of intent allows a Permittee to drop out of the process at any time and 12 months are required to process a Memorandum of Understanding with County and State agencies.</p> <p>Revise Item 2. to require "Each Permittee not participating in a Coordinated Integrated Monitoring Plan to submit an Integrated Monitoring Plan..."</p>
12	Attachment E, Pages 5-6	III.F & G	
13	Attachment E, Page 6	III.H.3	
14	Attachment E, Pages 7-8	IV.C.1	
15	Attachment E, Page 8	IV.C.2	
16	Attachment E, Page 8	IV.C.3	<p>Revise to allow participating Permittees 24 months to submit a Coordinated Integrated Monitoring Plan. It will take a minimum of 12 months to process a Memorandum of Understanding with County and State agencies and that agreement is required before any Permittee will award a contract to a consultant to prepare a Coordinated Integrated Monitoring Plan. It takes 3 months to issue Request for Proposals and award a contract and then 9 months for a consultant to prepare a Coordinated Integrated Monitoring Plan. Since existing monitoring programs will proceed as Coordinated Integrated Monitoring Plans are being prepared, then there is no need for accelerated schedules.</p>

Revise to allow 9 months after approval of an IMP or CIMIP by the Executive Officer to commence monitoring. It takes 3 months to issue Request for Proposals and award a contract for monitoring. It takes an additional 6 months to obtain permits from the Los Angeles County Flood Control District to access monitoring locations on their systems.

18	Attachment E, Page 8	IV.C.7	<p>Both the current permit shoreline monitoring program (CI-6948) and the SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) are being incorporated into the new permit. The CI-6948 shoreline monitoring requirements, Section II.D - page T-11, is redundant to the CSMP. All stations monitored in the CI-6948 are also monitored in the CSMP. Furthermore, the SMBBB TMDL specifies that the agencies are to select sampling frequency and the CSMP states that the agencies have selected weekly sampling frequency. However, CI-6948 requires several stations to be monitored up to 5 days per week and with the addition of the CSMP, additional stations will be monitored two days per week.</p> <p>Paragraph II.D.b) of the CI-6948 shoreline monitoring section specifies that the sampling frequency at 28th Street (DHS 113), also SMB-5-2, and Herondo storm drain (DHS 115), also SMB-6-1, be increased to 5 times per week. Paragraph II.D.e) states that monitoring sites are to be monitored 5 days per week if the historical water quality is worse than the reference beach. However, no evidence was presented to the responsible agencies that this was the case for the SMB-5-2 or 6-1.</p> <p>An evaluation of historical data was presented by the Regional Board Staff Report for the reconsideration of the SMBBB TMDL dated May 2012. Further evaluation of this data shows that SMB-5-2 and SMB-6-1 should not be subject to the increase frequency for the following reasons:</p> <ol style="list-style-type: none"> 1. Of the 67 stations being monitored as part of the CSMP, SMB-5-2 and 6-1 are ranked 57 and 43 respectively in the percent of exceedances during the summer dry weather period. 2. 37 stations being monitored only weekly or two days per week had a higher summer-dry weather exceedance percentage than SMB-6-1. 3. The Reference Beach monitoring station (SMB-1-1) had a summer dry weather period exceedance percentage of 10.2% versus 6.9% and 3.2% for SMB-5-2 and 6-1, respectively. 4. The Reference Beach monitoring station (SMB-1-1) had an average year-round exceedance percentage of 12.1% versus 14.6% and 11.4% for SMB-5-2 and 6-1, respectively. Although exceedance rate for SMB 5-2 is higher than the Reference Beach monitoring station based on year round results, it is lower during the critical summer-dry weather period. 5. Of the 8 stations being monitored five days per week SMB-6-1 and 5-2 have the lowest summer dry weather period exceedance percentage (top 6 ranged from 40.9% to 8.5% compared to 6.9% and 3.2% for SMB-5-2 and 6-1). <p>In addition, the inclusion of both the CI-6948 shoreline monitoring program and CSMP into the permit will result in 5 (SMB-5-1, 5-3, 5-5, 6-5, and 6-6) of the other 9 monitoring stations in SMBBB TMDL Jurisdictional Groups 5 and 6 being monitored 2 days per week which is not the case for any of the other CSMP stations.</p> <p>For all of the above reasons, the shoreline monitoring provisions of CI-6948 should be removed from the new permit monitoring program. However, at a minimum, paragraph D.1.b) should be removed and paragraph D.1.e),(1) should be modified to remove stations S13 (SMB-5-1), S14 (SMB-5-3), S15 (SMB-5-5), S17 (SMB-6-5) and S16 (SMB-6-6).</p> <p>The following is proposed wording modification to Attachment E, Section IV.C.7:</p> <p>"7. Monitoring requirements pursuant to Order No. 01-162, except Section D.1.b) is removed and Section D.1.e),(1) is modified to removed sites S13, S14, S15, S17 and S18 of the Monitoring and Reporting Program - CI-6948, shall remain in effect until the Executive Officer of the Regional Water Board approves a Permittee(s) IMP and/or CIMP plan(s)."</p>
19	Attachment E, Page 14	VI.C.1.b	Monitoring should be performed per approved IMP or CIMP or approved TMDL. The IMP and CIMP should identify rain gauges to use in the appropriate watershed.
20	Attachment E, Page 15	VI.C.1.d	Omit iv. The TMDLs will specify if TSS or SSC monitoring is required, otherwise sediments are needed for beach replenishment and the naturally occurring transport of sediments should not be regulated.
21	Attachment E, Page 15	VI.C.1.d	Omit vi. This imposing of State and Federal responsibilities on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
22	Attachment E, Page 15	VI.D.1.a	Omit the requirement for "One of the monitoring events shall be during the month with the historically lowest instream flows." This data does not exist and it would be simpler to specify the historically driest month.
23	Attachment E, Page 15	VI.D.1.b	Revise item i. and ii. to simply be on days with no measurable rain. There are sufficient days of no measurable rain in Southern California and any rain event could result in isolated stormwater run off.
24	Attachment E, Page 16	VII.A	Revise the description to include database, "The IMP and/or CIMP plan(s) shall include a map and/or database of the MSA to include the following information:" GIS maps all come with database(s) that include much of the required information.
25	Attachment E, Page 17	VIII.A.2.e	Include the option to monitor "upstream of the actual outfall or downstream of a political boundary". Sometimes the best location to do monitoring is at the next manhole downstream from a city boundary.
26	Attachment E, Page 17	VIII.B.1.a	Omit "except aquatic toxicity, which shall be monitored once per year..." This imposing of State and responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
27	Attachment E, Page 18	VIII.B.1.b	Omit item ii. and iii. Monitoring should be performed per approved IMP or CIMP or approved TMDL.
28	Attachment E, Page 18	VIII.B.1.c	Omit item iv. The TMDLs will specify if TSS or SSC monitoring is required, otherwise sediments are needed for beach replenishment and the naturally occurring transport of sediments should not be regulated.
29	Attachment E, Page 18	VIII.B.1.c	Omit vi. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
30	Attachment E, Page 19	IX.A.2	Include "natural flows" or "natural sources" as a potential source of non-storm water flow.
31	Attachment E, Page 22	IX.E.2	Revise last sentence to read, "100% of the outfalls in the inventory within 5 years..."

32	Attachment E, Page 22	IX.F.2	Omit the requirement to report to the Regional Board "within 30 days of determination" because there are too many report submittals that could lead to a Notice of Violation that will have no impact on water quality. Reporting source identifications in the annual report provides central location for submittals.
33	Attachment E, Page 23	IX.G.3 & 4	Outfalls not subject to dry weather TMDLs that have significant dry weather flows should have continuous flow monitoring done for a quarter with water quality sampling done once at the beginning of that time period. If the water quality sampling indicates pollutant concentrations that exceed water quality standards, then the IC/ID investigation procedures should begin. If no water quality standards are exceeded or the IC/ID investigation eliminates the source of pollutants, then that flow has been demonstrated NOT to cause or contribute to pollutant loading and should be stopped. To continue monitoring a site that is known NOT to cause or contribute to pollutant loading is a waste of resources and an un-funded mandate.
34	Attachment E, Page 24	X	This section should be moved to Section VI.D.6.d.iv. for clarity.
35	Attachment E, Page 25	XI	Omit this section. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform Pyrethroid and SCCWRP regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
36	Attachment E, Page 28	XII	Omit this section. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
37	Attachment E, Page 38	XIV.1.1 & 2	It is not reasonable to force Permittees to make changes to approved Monitoring and Reporting Programs based on the whim of an "interested" party or "as deemed necessary by EO". This provides unlimited power to interested parties or EO. Recommend these items be revised to include a caveat that there would be no additional costs or as approved by Regional Board, to make those changes open and transparent.
38	Attachment E, Page 39	XIV.M	Omit section M. as it is redundant to section L.
39	Attachment E, Page 44	XVIII.A.5	Omit items b. & c. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
40	Attachment E, Pages 49-52	XIX.B	Only include schedules for IMP and CIMP for USEPA established TMDLs and revise those schedules to be 9 months for IMP and 24 months for CIMP. Having due dates for Monitoring and Reporting plans for IMP and CIMP past the due date established by the TMDL creates confusion.

Document Name: TMDL Section Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment		Doc. Reference		Comments
No.	Page General	Section General		
1	Apr-12	Same comment	Jul-12	
2	17	Findings		<p>Any TMDL, for which compliance with a waste load allocation (WLA) is exclusively set in the receiving water, shall be amended by a re-opener to also allow compliance at the outfall to allow that flexibility, or other end-of-pipe, that shall be determined by translating the WLA into non-numeric WOBELs, expressed as best management practices (BMPs). While the TMDL re-opener is pending, an affected Permittee shall be in compliance with the receiving water WLA through the implementation of permit requirements.</p> <p>Not clear on what "discharges from the MS4 for which they are owners and/or operators" means.</p>
3	pages 111 - 123 and Attachments K - R	TMDL		<p>Santa Monica Bay Beaches Bacteria TMDL (SMBBB TMDL) is currently being reconsidered. As part of that reconsideration, the summer dry weather targets must be revised to be consistent with the reference beach/anti-degradation approach established for the SMBBB TMDL and with the extensive data collected over that past seven years since original adoption of the SMBBB TMDL. This data clearly shows that natural and non-point sources result in 10% exceedances during dry weather. Data collected at the reference beach since adoption of the TMDL, as tabulated in Table 3 of the staff report of the proposed revisions to the Basin Plan Amendment, demonstrate that natural conditions associated with freshwater outlets from undeveloped watersheds result in exceedances of the single sample bacteria objectives during both summer and winter dry weather on approximately 10% of the days sampled.</p> <p>Thus the previous Source Analysis in the Basin Plan Amendment adopted by Resolution No. 02-004 which stated that "historical monitoring data from the reference beach indicate no exceedances of the single sample targets during summer dry weather and on average only three percent exceedance during winter dry weather" was incorrect and based on a data set not located at the point zero compliance location. Continued allocation of zero summer dry weather exceedances in the proposed Basin Plan Amendment is in direct conflict with the stated intent to utilize the reference beach/anti-degradation approach and ignores the scientifically demonstrated reality of natural causes and non-point sources of indicator bacteria exceedances.</p>
4	pages 111 - 123 and Attachments K - R	TMDL		<p>Continued use of the zero summer dry weather exceedance level will make compliance with the SMBBB TMDL impossible for the Jurisdictional agencies. This is also in conflict with the intent of the Regional Board as expressed in finding 21 of Resolution 2002-022 "that it is not the intent of the Regional Board to require treatment or diversion of natural coastal creeks or to require treatment of natural sources of bacteria from undeveloped areas".</p>
5	pages 111 - 123 and Attachments K - R	TMDL		<p>The SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) was approved by the Regional Board staff and that CSMP should be incorporated into the TMDL monitoring requirements of the next MS4 Permit. The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week, thus it is highly confusing and misleading to refer to "daily monitoring". The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week.</p>

6	pages 111 - 123 and Attachments K - R	TMDL	<p>This discussion in this section devoted to the SMBBB TMDL seems to create confusion regarding the meaning of the terms "water quality objectives or standards," "receiving water limitations," and "water quality-based effluent limitations". Water quality objectives or water quality standards are those that apply in the receiving water. Water Quality Effluent Based Limits apply to the MS4. So the "allowable exceedance days" for the various conditions of summer dry weather, winter dry weather, and wet weather should be referred to as "water quality-based effluent limitations" since those are the number of days of allowable exceedances of the water quality objectives that are being allowed for the MS4 discharge under this permit. While the first table that appears under this section at B.1 (b) should have the heading "water quality standards" or "water quality objectives" rather than the term "effluent limitations".</p> <p>While it makes sense for the Jurisdictional Groups previously identified in the TMDLs to work jointly to carry out implementation plans to meet the interim reductions, only the responsible agencies with land use or MS4 tributary to a specific shoreline monitoring location can be held responsible for the final implementation targets to be achieved at each individual compliance location. An additional table is needed showing the responsible agencies for each individual shoreline monitoring location.</p> <p>The Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4 based on estimates from limited data on existing stormwater discharges which resulted in a waste load allocation for stormwater that is lower than necessary to meet the TMDL targets, in the case of DDT far lower than necessary. EPA stated that "if additional data indicates that existing stormwater loadings differ from the stormwater waste load allocations defined in the TMDL, the Los Angeles Regional Water Quality Control Board should consider reopening the TMDL to better reflect actual loadings." [USEPA Region IX, SMB TMDL for DDTs and PCBs, 3/26/2012]</p>	<p>In effect the effluent limitations are stricter than the receiving water standards. This is inconsistent with law and creates a situation in which permittees are out of compliance at the effective date of this permit. Please adjust so that limits are consistent with standards and not exceeding standards.</p>
7	pages 111 - 123 and Attachments K - R	TMDL		<p>A table is still needed and should be developed. Perhaps referred to in this section but placed in the Watershed Management Plan and then approved by Executive Officer with the plan.</p>
8	pages 111 - 123 and Attachments K - R	TMDL		<p>Same comment</p>
9	pages 111 - 123 and Attachments K - R	TMDL		<p>Same comment</p>
10	pages 111 - 123 and Attachments K - R	TMDL	<p>In order to avoid a situation where the MS4 permittees would be out of compliance with the MS4 Permit if monitoring data indicate that the actual loading is higher than estimated and to allow time to re-open the TMDL, if necessary, recommend as an interim compliance objective WQBELs based on the TMDL numeric targets for the sediment fraction in stormwater of 2.3 ug DDT/g of sediment on an organic carbon basis, and 0.7 ug PCB/g sediment on an organic carbon basis.</p> <p>Although the Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4, they should be translated as WQBELs in a manner such that watershed management areas, subwatersheds and individual permittees have a means to demonstrate attainment of the WQBEL. Recommend that the final WLAs be expressed as an annual mass loading per unit area, e.g., per square mile. This in combination with the preceding recommendation for an interim WQBEL will still serve to protect the Santa Monica Bay beneficial uses for fishing while giving the MS4 Permittees time to collect robust monitoring data and utilize it to evaluate and identify controllable sources of DDT and PCBs.</p>	<p>Please clarify that this situation would be covered under the new provisions for USEPA established TMDLs opens the door for allowing Permittees to address this through their plans.</p>
11	pages 111 - 123 and Attachments K - R	TMDL	<p>The Machado Lake Trash WQBELs listed in the table at B.3 of Attachment N in the Tentative Order appear to have been calculated from preliminary baseline waste load allocations discussed in the July 11, 2007 staff report for the Machado Lake Trash TMDL, rather than from the basin plan amendment. In some cases the point source land area for responsible jurisdictions used in the calculation are incorrect because they were preliminary estimates and subsequent GIS work on the part of responsible agencies has corrected those tributary areas. In other cases some of the jurisdictions may have conducted studies to develop a jurisdiction-specific baseline generation rate. The WQBELs should be expressed as they were in the adopted TMDL WLAs, that is as a percent reduction from baseline and not assign individual baselines to each city but leave that to the individual city's trash reporting and monitoring plan to clarify.</p>	<p>Same comment</p>

12	pages 111 - 123 and Attachments K - R	TMDL	<p>The WLAs in the adopted Machado Lake Trash TMDL were expressed in terms of percent reduction of trash from Baseline WLA with the note that percent reductions from the Baseline WLA will be assumed whenever full capture systems are installed in corresponding percentages of the conveyance discharging to Machado Lake. As discussed in subsequent city-specific comments, there are errors in the tributary areas originally used in the staff report, but in general, tributary areas are available only to about three significant figures when expressed in square miles. Thus the working draft should not be carrying seven significant figures in expressing the WQBELs as annual discharge rates in uncompressed gallons per year. The convention when multiplying two measured values is that the number of significant figures expressed in the product can be no greater than the minimum number of significant figures in the two underlying values. Thus if the tributary area is known to only three or four significant figures, and the estimated trash generation rate is known to four significant figures, the product can only be expressed to three or four significant figures.</p> <p>Thus there should be no values to the right of the decimal place and the whole numbers should be rounded to the correct number of significant figures.</p>	Same comment
13	pages 111 - 123 and Attachments K - R	TMDL	<p>The Machado Lake Nutrient TMDL provides for a reconsideration of the TMDL 7.5 years from the effective date prior to the final compliance deadline. Please include an additional statement as item C.3.c of Attachment N: "By September 11, 2016 Regional Board will reconsider the TMDL to include results of optional special studies and water quality monitoring data completed by the responsible jurisdictions and revise numeric targets, WLAs, LAs and the implementation schedule as needed."</p> <p>Table C is not provided in the section on TMDLs for Dominguez Channel and Greater LA and Long Beach Harbors Toxic Pollutants. Please clarify and reference that Attachment D Responsible Parties Table RB4 Jan 27, 12 which was provided to the State Board and responsible agencies during the SWRCB review of this TMDL, and is posted on the Regional Board website in the technical documents for this TMDL, is the correct table describing which agencies are responsible for complying with which waste load allocations, load allocations and monitoring requirements in this VERY complex TMDL. Attachment D should be included as a table in this section of the MS4 Permit.</p>	Same comment
14	pages 111 - 123 and Attachments K - R	TMDL	<p>The Dominguez Channel and Greater LA and Long Beach Harbor Waters Toxic Pollutants TMDL provides for a reconsideration of the TMDL targets and WLAs. Please include an additional statement as item E.5 of Attachment N: "By March 23, 2018 Regional Board will reconsider targets, WLAs and LAs based on new policies, data or special studies. Regional Board will consider requirements for additional implementation or TMDLs for Los Angeles and San Gabriel Rivers and interim targets and allocations for the end of Phase II."</p> <p>City of Hermosa Beach is only within one watershed, the Santa Monica Bay Watershed, and so should not be shown in italics as a multi-watershed permittee</p>	Partially addressed--the table provided in the Tentative Order is not the detailed Attachment D which clarifies which agencies are responsible for which portions of the TMDL--need to include that table.
15	pages 111 - 123 and Attachments K - R	TMDL	<p>Recommend not listing specific water bodies in E.5.b.i.(1),(c) because then it risks becoming obsolete if new TMDLs are established for trash, or if they are reconsidered. Furthermore, it is not clear why Santa Monica Bay was left out of this list since the Marine Debris TMDL allows for compliance via the installation of for-tuff capture devices.</p>	Same comment
16	pages 111 - 123 and Attachments K - R	TMDL	N/A	Addressed in Table K-3 of the Tentative Order but not in Table K-2 of the Tentative Order.
17	pages 111 - 123 and Attachments K - R	TMDL		Not addressed, still don't know why Santa Monica Bay Marine Debris was not included in the list at E.5.b.i.(1),(c) but it is listed in E.5.a.ii and Attachment M Section B.
19	pages 111 - 123 and Attachments K - R	TMDL		Suggest wet weather compliance be partially defined by a design storm.

20	pages 111 - 123 and Attachments K - R	TMDL	N/A	<p>Regional Board staff has incorrectly determined that a WQBEL may be the same as the TMDL WLA, thereby making it a "numeric effluent limitation." Although numerous arguments may be marshaled against the conclusion, the most compelling of all is the State Water Resources Control Board's clear opposition reluctance to use numeric effluent limitations.</p> <p>In Water Quality Orders 2001-15 and 2009-0008 the State Board made it clear that: we will generally not require "strict compliance" with water quality standards through numeric effluent limitations," and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards.</p> <p>[Please note that the iterative approach to attain water quality standards applies to the outfall and the receiving water.]</p> <p>More recently, the State Board commented in connection with the draft Caltrans MS4 permit that numeric WQBELs are not feasible in the following provision from its most recent Caltrans draft order:</p> <p><i>Storm water discharges from MS4s are highly variable in frequency, intensity, and duration, and it is difficult to characterize the amount of pollutants in the discharges. In accordance with 40 CFR § 122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits. This Order requires implementation of BMPs to control and abate the discharge of pollutants in storm water to the MEP.</i></p> <p>The State Board's decision not to require numeric WQBELs in this instance appears to have been influenced by among other considerations, the Storm Water Panel Recommendations to the California State Water Resources Control Board in re: <i>The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.</i></p> <p>Same comment</p>
21	pages 111 - 123 and Attachments K - R	Table K-8	Please remove, in its entirety, the Santa Ana River TMDLs	Same comment
22	pages 111 - 123 and Attachments K - R	E.1.c	Permittees under the new MS4 permit (those in LA County) need to be able to separate themselves from Orange County cities. Since the 0.941 kg/day is a total mass limit, it needs to be apportioned between the two counties. Also, the MS4 permit needs to contain language allowing permittees to convert group-based limitations to individual permittee based limitations.	Same comment
23	111	E.2	Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions.	Same comment
24	111	E.2.a.i	N/A	<p>This provision creates confusion and inconsistency with the language in the rest of the permit. By stating that the permittee shall demonstrate compliance through compliance monitoring points, it appears to preclude determining compliance through other methods as outlined in other portions of the permit. This provision does not reference any of the other compliance provisions in the TMDL section, and could therefore be interpreted on its own as a separate compliance requirement. Additionally, the requirement to use the TMDL established compliance monitoring locations regardless of whether an approved TMDL monitoring plan or integrated plan has been developed is not consistent with the goal of integrated monitoring outlined in the permit. This provision would be more appropriate as a monitoring and reporting requirement for the TMDL section with modified language such as "Monitoring locations to be used for demonstrating compliance in accordance with Parts V.I.E.2.d or V.I.E.2.e shall be established at compliance monitoring locations established in each TMDL or at locations identified in an approved TMDL monitoring plan or in accordance with an approved integrated monitoring program per Attachment E Part V.I.C.5 (Integrated Watershed Monitoring and Assessment)."</p>

25	112	E.2.b.iv	<p>For "each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance", how is this going to be possible? There is allowed non-storm water discharges, a commingled system, and the LA County region is practically urbanized (impervious landscape). Additionally, a gas tanker on local freeways often discharges onto freeway drains, which connect to MS4 permittee drains - the point here is a private party as the actual discharger should be held responsible and not the MS4 permittee. Lastly, the Construction General Permit cannot establish numeric limitations without the Regional/State Boards clearly demonstrating how compliance will be achieved - the MS4 permit is overly conditioned in terms of achieving compliance and subjects MS4 permittees to violations/enforcement, and given these circumstances, the Boards need to clearly demonstrate how compliance will be achieved.</p>	<p>Same comment</p>
26	112	E.2.b.v.(2)	N/A	<p>This provision should not require that the permittee demonstrate that the discharge from the MS4 is treated to a level that does not exceed the applicable water quality-based effluent limitation. Permittees may achieve the applicable WQBELs through means other than treatment and they should be able to demonstrate that their discharge does not exceed the applicable water quality-based effluent limitation through monitoring or other means than demonstration of treatment.</p>
28	113	E.2.d.i.4.b.	<p>Is this in effect setting a design storm for the design of structural BMPs to address attainment of TMDLs, or is it simply referring to SUSMP/LID type structural BMPs? If it is in effect setting a design storm, there needs to be some sort of exception for TMDLs in which a separate design storm is defined, e.g., for trash TMDLs where the 1-year, 1-hour storm is used.</p>	<p>This is not clarified, but it is still a problem as not all retrofit projects which might be used to address TMDLs may be able to handle the full 85th percentile 24-hour storm, there should be some provision for doing this through a combination of BMPs, e.g., LID plus retrofit.</p>
29	114	E.2.e	<p>Please add the language from interim limits E.2.d.4 a - c and EPA TMDLs to the Final Water Quality Based Effluent Limitations and/or Receiving Water Limitations to ensure sufficient coordination between all TMDLs and the timelines and milestones that will be implemented in the Watershed Management Program.</p>	<p>Same comment</p>
30	116	E.4.a	<p>This provision states "A-Permittees shall comply immediately ... for which final compliance deadlines have passed pursuant to the TMDL implementation schedule." This provision is unreasonable. First, various brownfields/abandoned toxic sites exists, some of which were permitted to operate by State/Federal agencies - nothing has or will likely be done with these sites that contribute various pollutants to surface and sub-surface areas. Additionally, this permit is going to require a regional monitoring program - this program will yield results on what areas are especially prone to particular pollutants. Until these results are made known, MS4 Permittees will have a hard time knowing where to focus its resources and particularly, the placement of BMPs to capture, treat, and remove pollutants. For these reasons, this provision should be revised to first assess pollutant sources and then focus on compliance with BMP implementation.</p>	<p>Same comment</p>
31	116-123	E.5	<p>Please clarify that cities are not responsible for retrofitting.</p>	<p>Same comment</p>
32	116-123	E.5.a - c	<p>Recommend not listing specific waterbody/trash TMDLs here, but simply leave the reference to Attachments to identify the Trash TMDLs. Otherwise, this may have to be revised in the future. Again, Santa Monica Bay Marine Debris TMDL was not included in this list, it is unclear whether it was an oversight or intentional?</p>	<p>Same comment</p>
33	116-123	E.5.b.ii.2	<p>Define "partial capture devices", define "institutional controls". Permittees need to have clear direction of how to attain the "zero" discharges which will have varying degrees of calculations regardless of which compliance method is followed. Explain the Regional Board's approval process for determining how institution controls will supplement full and partial capture to attain a determination of "zero" discharge.</p>	<p>Same comment</p>
34	116-123	E.5.b.ii.(4)	<p>MFAC and TMRP should be an option available to the Los Angeles River.</p>	<p>Same comment</p>
35	116-123	E.5.c.i.(1)	<p>For reporting compliance based on Full Capture Systems, what is the significance of needing to know "the drainage areas addressed by these installations?" Unfortunately, record keeping in Burbank is limited to the location and size of City-owned catch basins. A drainage study would need to be done to define these drainage areas. As such, we do not believe this requirement serves a purpose in regards to full capture system installations and their intended function.</p>	<p>Same comment</p>
36	Attachment L	D.3 a - c	<p>Please change the Receiving Water Limitations for interim and final limits to the TMDL approved table. There should be no interpretation of the number of exceedance days based on daily for weekly sampling with, especially with no explanation of the ratio or calculations, and no discussion of averaging. Please revert to the original TMDL document.</p>	<p>The table was adjusted, but did not eliminate the interpretation of number of exceedance days that are not expressly completed in the Santa Clara River TMDL. Remove all interpretation of number of exceedance days other than what has been expressed in the original TMDL number of days of exceedances without interpretation or recalculation.</p>

37	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For the freshwater portion of the Dominguez Channel. There are no provisions for BMP implementation to comply with the interim goals. The wording appears to contradict Section E.2.d.i.4 which allows permittees to submit a Watershed Management Plan or otherwise demonstrate that BMPs being implemented will have a reasonable expectation of achieving the interim goals.	Same comment
38	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For Greater LA Harbor. Similar to the previous comment regarding this section. The Table establishing Interim Effluent Limitations, Daily Maximum (mg/kg sediment), does not provide for natural variations that will occur from time to time in samples collected from the field. Given the current wording in the proposed Receiving Waters Limitations, even one exceedance could potentially place permittees in violation regardless of the permittees level of effort. Reference should be made in this section to Section E.2.d.i.4 which will provide the opportunity for the Permittee to develop BMP-base compliance efforts to meet interim goals.	Same comment
39	Attachment N	TMDLs in the Dominguez Channel and Greater Harbor Waters WMA	For the freshwater portion of the Dominguez Channel; the wording should be clarified. Section 5.a states that "Permittees subject to this TMDL are listed in Attachment K, Table K-4." Then the Table in Section E.2.b Table "Interim Effluent Limitations-- Sediment", lists all permittees except the Fresh water portion of the Dominguez Channel. For clarification purposes, we request adding the phase to the first row: "Dominguez Channel Estuary (below Vermont)"	Same comment
40	Attachment O, Page 3	C	For the LA River metals. Some permittees have opted out of the grouped effort. This section needs to detail how these mass-based daily limitations will be reapportioned.	Same comment
41	Attachment O, Page 7	D.4	Why are "Receiving Water Limitations" being inserted here? None of the other TMDLs seem to follow that format.	Same comment
42	Attachment P	TMDLs in the San Gabriel River WMA	It is the permittees understanding that the lead impairment of Reach 2 of the San Gabriel River has been removed. It should be removed from the MS4 permit.	Same comment

Document Name: Watershed Management Program Section Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Doc. Reference		Comments
No.	Page	
1	General	<p>Apr-12</p> <p>While it may be appropriate to have an overall design storm for the NPDES Permit and TMDL compliance, this element seems to address individual sites. Recommend developing more prominently in the areas of the Permit that deals with compliance that the overall Watershed Management Program should deal with the 85th percentile storm and that beyond that. Permittees are not held responsible for the water quality from the much larger storms. However, requiring individual projects to meet this standard is limiting as there may be smaller projects implemented that individually would not meet 85th percentile, but collectively would work together to meet that standard. Please clearly indicate cities are only responsible for the 85th percentile storm for compliance and that individual projects may treat more of less than number.</p> <p>Jul-12</p> <p>Changes were made but it is unclear that the overall program would be collectively only held to the 85th percentile storm if working in multiple areas, and individual sites only if the Watershed Management Program states that individual sites would be responsible.</p>
2	46	<p>Apr-12</p> <p>Please clarify that Permittees will only be responsible for continuing existing programs and TMDL implementation plans during the interim 18 month period while developing the Watershed Management Program and securing approval of those programs</p> <p>Same comment</p>
3	46-47	<p>Please allow 24 months for development of the Watershed Management Program to provide sufficient time for calibration and the political process to adopt these programs.</p> <p>Same comment. However, there could be a phased approach in which a permittee could submit early actions within this timeline, while more time is offered for the resource intensive aspects.</p>
4	46-53	<p>The Table (TBD) on page 2 states implementation of the Watershed Program will begin upon submittal of final plan. Page 11, section 4 Watershed Management Program Implementation states each Permittee shall implement the Watershed Management Program upon approval by the Executive Officer. Page 13 section iii says the Permittee shall implement modifications to the storm water management program upon acceptance by the Executive Officer. All three of these elements should be consistent and state upon approval by the Executive Officer. The item on page 13 should be changed to reflect the Watershed Management Program, or clarify that the Watershed Management Program is the storm water management program.</p> <p>Table 9 and Watershed Management Implementation are still inconsistent. The table says submittal and the Watershed Management Program Implementation states upon approval. Please make these consistent</p>
5	47	<p>Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions.</p> <p>Same comment</p>
6	3.a.ii	<p>Pollutants in category 4 should not be included in this permit term, request elimination of any evaluation of category 4. Request elimination of category 3, as work should focus on the first two categories at this point</p> <p>Thank you for removing category 4. Category 3 puts a burden on cities during this permit cycle. In the next permit term, when permittees have a better understanding of sources and location of the high priority pollutant additional actions may be warranted. At this time including category 3 adds an investigative burden that is unwarranted given the substantial increase in requirements and monitoring that are already included in this draft tentative order.</p>
7	52	<p>Reasonable assurance analysis and the prioritization elements should also include factors for technical and economic feasibility</p> <p>Same comment</p>
8	112	<p>For the "group of Permittees" having compliance determined as a whole, this should only be the case if the group of Permittees have moved forward with shared responsibilities (MDAs, cost sharing, a Watershed Management Program). It would not be fair to have one entity not be a part of the "group" and be the main cause of exceedances/violations.</p> <p>In the Tentative Order, permittees must notify the Regional Board 6 months after the Order's effective date on whether it plans to participate in the development of a Watershed Management Program. Given this, a sub-watershed will not know whether all permittees will participate or not. It should also be noted that allowed non-stormwater discharges and other NPDES permit discharges may be the cause of exceedances/violations and not the "group of permittees."</p>

Document Name: **Receiving Water Limitation Section Draft Tentative Order - July 2012**

Agency/Reviewer: **LA Permit Group**

Comment No.	Doc. Reference		Comments
	Page	Section	
1	37-38	All	<p>Apr-12</p> <p>Currently the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. It is imperative that the Regional Board works with the State Board on this very important issue</p> <p>Jul-12</p> <p>There are several MPDES Permits, including the Calitans Permit and others, that adjust the Receiving Water Limitation language in response to new interpretations. Currently, the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. LASP has provided the Regional Board staff with sample language. It is imperative that the Regional Board works with the State Board on this very important issue. It is critical that the LA draft tentative order Receiving Water Limitation language be adjusted to ensure cities working in good faith are not subject to enforcement and third party litigation.</p>

Document Name: Additional Sections Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment No.	Doc. Reference		Comments
	Page	Section Findings	
1	13-26		<p>Please add findings regarding the iterative process.</p> <p>The iterative process is a process of implementing, evaluating, revising, or adding new BMPs to attain water quality standards, including total maximum daily load (TMDL) waste load allocations (WLAs). The State Water Resources Control Board (State Board) has affirmed, in several precedential water quality orders (including WQ 99-05 and 2001-15), the inclusion of the iterative process in MS4 permits. As the State Board noted in WQ 2001-15:</p> <p>This Board has already considered and upheld the requirement that municipal storm water discharges must not cause or contribute to exceedances of water quality objectives in the receiving water. We adopted an iterative procedure for complying with this requirement, wherein municipalities must report instances where they cause or contribute to exceedances, and then must review and improve BMPs so as to protect the receiving waters.</p> <p>The iterative process goes hand-in-hand with the Receiving Water Limitation provision of this order, which is intended to address a water quality standard exceedance. An MS4 permit is a point source permit, which is defined by §40 CFR 122.2 to mean outfall or end-of-pipe. Attainment of a water quality standard in stormwater discharge is achieved in the effluent or discharge from the MS4 through the implementation of BMPs contained in a Stormwater Quality Management Plan (SQMP). If a water quality standard is frequently exceeded as determined by outfall monitoring relative to an ambient condition of the receiving water (during the 5-year term of the Order) the permittee shall be required to propose better-tailored BMPs to address the exceedance. The process includes determining (1) if the exceedances are statistically significant and if so, would require the permittee to (2) identify the source of the exceedance; and (3) propose new or intensified BMPs to be implemented in the next MS4 permit – unless the Executive Officer determines that a more immediate response is required.</p> <p>(continued from previous page) The iterative process does not apply to non-stormwater discharges. Section 402(p)(3)(B)(ii) of the Clean Water Act only prohibits non-stormwater discharges to the MS4 and not from it as is the case with stormwater discharges. This is because Congress set two standards for MS4 discharges: one stormwater and one for non-stormwater. As noted in WQO 2009-008, the Clean Water Act and the federal storm water regulations assign different performance requirements for storm water and non-storm water discharges. These distinctions in the guidance document, the Clean Water Act, and the storm water regulations make it clear that a regulatory approach for storm water - such as the iterative approach we have previously endorsed - is not necessarily appropriate for non-storm water.</p>

2	24 and Attachment F, Pages 146-149	Unfunded Mandates Section of Fact Sheet and Permit	several related	<p>It is incorrect to assert an outcome on the unfunded mandates issue in a permit; this has nothing to do with protecting water quality. The unfunded mandates process has not completed a process and these assertions are opinion. Since the Fact Sheet is part of the permit, remove this section. There are many errors and incorrect assumptions, especially around the level of effort required for this permit when compared to the current permit, and the economic issues that are incorrect.</p>
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Document Name: Minimum Control Measures Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Doc. Reference		Comments
No.	Page	
1	General	<p>Jul-12</p> <p>It is appropriate to have an exemption for a Permittee from a violation of RWL and/or WQBELs caused by a non-stormwater discharge from a potable water supply or distribution system not regulated by an NPDES permit but required by state or federal statute; this should clearly apply to all NPDES permits issued to others within, or flow through, the MS4 permittees jurisdiction. We would request that also included in this category should be emergency releases caused by water line breaks which are not necessary, but are unexpected and have to be dealt with as an emergency. MS4 permittees should be exempt from RWL or WQBEL violations associated with any permitted NPDES discharges that are effectively authorized by LARWQCB under the Clean Water Act.</p>
2	General	<p>Since it could take 6 months for an agency to decide if they want to join in the development of a Watershed Management Plan or just modify their current Stormwater Management Program to comply with the new permit MCMs, the implementation of the new MCMs should follow this timeline. In the interim the permittees will be required to continue implementing their current Stormwater Management Program.</p>
3	26	<p>A.</p> <p>RB staff proposed language requires the permittees to "prohibit non-stormwater discharges through the MS4 to receiving waters" except where authorized by a separate NPDES permit or conditionally. This prohibition is inconsistent with legal authority provisions in the federal regulations since 40 CFR 122.26(c)(1)(ii) which requires legal authority to control discharges to the MS4 but not from the MS4. Additionally, with respect to the definition of an illicit discharge at 40 CFR 122.26(b)(2), an illicit discharge is defined as "a discharge to the MS4 that is not composed entirely of stormwater". In issuing its final rulemaking for stormwater discharges on Friday, November 16, 1990(1), USEPA states that:</p> <p>"Section 405 of the WCA alters the regulatory approach to control pollutants in storm water discharges by adopting a phased and tiered approach. The new provision phases in permit application requirements, permit issuance deadlines and compliance with permit conditions for different categories of storm water discharges. The approach is tiered in that storm water discharges associated with industrial activity must comply with sections 301 and 402 of the CWA (requiring control of the discharge of pollutants that utilize the Best Available Technology (BAT) and the Best Conventional Pollutant Control Technology (BCT) and where necessary, water quality-based controls), but permits for discharges from municipal separate storm sewer systems must require controls to the maximum extent practicable, and where necessary water quality-based controls, and must include a requirement to effectively prohibit non-stormwater discharges into the storm sewers."</p> <p>This is further illuminated by the section on Effective Prohibition on Non-Stormwater Discharges(2):</p> <p>"Section 402(p)(3)(B)(ii) of the amended CWA requires that permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers. Based on the legislative history of section 405 of the WCA, EPA does not interpret the effective prohibition on non-storm water discharges to municipal separate storm sewers to apply to discharges that are not composed entirely of storm water, as long as such discharge has been issued a separate NPDES permit. Rather, an 'effective prohibition' would require separate NPDES permits for non-storm water discharges to municipal storm sewers"</p> <p>The rulemaking goes on to say that the permit application:</p> <p>"requires municipal applicants to develop a recommended site-specific management plan to detect and remove illicit discharges (or ensure they are covered by an NPDES permit) and to control improper disposal to municipal separate storm sewer systems."</p> <p>Nowhere in the rulemaking is the subject of prohibiting discharges from the MS4 discussed. Furthermore, USEPA provides model ordinance language on the subject of discharge prohibitions: http://www.epa.gov/owow/NP-ordinance/mo15.htm. Section VII Discharge Prohibitions of this model ordinance provides discharge prohibition language as follows:</p> <p>"No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water."</p> <p>Thus we recommend that staff eliminate the "from" language at both Part III.A.1.a. and Part III.A.2.</p> <p>The conditional exemption of street/sidewalk water is inconsistent with the requirement in the industrial/commercial MCM section that street washing must be diverted to the sanitary sewer. Sidewalk water should definitely be conditionally exempt, but so also should patios and pool deck washing. If street washing has to be diverted to the sanitary sewer for industrial/commercial facilities, then it should for all facilities and so should parking lot wash water as they are similar in their pollutant loads.</p> <p>Enforcing NPDES permits issued for the various NSWDs referenced in this table should be the responsibility of the State/Regional Board, not the MS4 permittee. Therefore, it is inappropriate to include a condition that places a responsibility on the MS4 permittee to ensure requirements of NPDES permits are being implemented or effective in order for the pertaining NSWD category to be exempt. Proper enforcement of the various NPDES permits mentioned in this table should ensure impacts from these discharges are negligible.</p>
4	28	A.2.b.vi
5	33-36, Table 8	Discharge Prohibitions

6	39	A.2.a.i	<p>Staff proposal states: "Control the contribution of pollutants to its MS4 from stormwater discharges associated with industrial and construction activity and control the quality of stormwater discharged from industrial and construction sites."</p> <p>It appears the intent of this language is to transfer the State's inspection and enforcement responsibilities to municipalities through the MS4 permit. When a separate general NPDES permit is issued by the Regional or State Board it should be the responsibility of that agency collecting such permit fees to control the contribution of pollutants, not MS4 permittees.</p>
7	39	A.2.a.vii	<p>Staff proposal states: "Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees."</p> <p>The intention of this statement is unclear and should be explained, and a definition of "shared MS4" should be provided. How would an inter-agency agreement work with an upstream and downstream agency? This is not practical - this agreement should have been done before the interconnection of MS4 systems occurred. An example of this agreement should be provided within the Permit. The permittee will not agree to the responsibility of an exceedance without first having evidence of the source and its known origin (in other words, an IC/ID is a private "culprit" and not the cause of the City).</p>
8	39	A.2.a.xi	<p>Staff proposal states: "Require that structural BMPs are properly operated and maintained."</p> <p>MS4 agencies can control discharges through an illicit discharge program, and conditioning new/development to ensure mitigation of pollutants. Unless the existing development private property owners/tenants are willing or in the process of retrofitting its property, the installation and O&M of BMPs is not practical and cannot be legally enforceable against an entity that does not own or control the property, such as a municipal entity.</p>
9	39	A.2.a.xii	<p>Staff proposal states: "Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4."</p> <p>It is difficult, if not impossible, to accurately quantify the exact effectiveness of a particular set of BMP's in reducing the discharge of pollutants. Some discharges may be reduced over time given reductions in industrial activity, population in a particular portion of the community feeding into the MS4, or for other reasons not directly related to implementation of structural BMPs. Given that the County of LA is generally urbanized and thus impervious, a lethargic economic climate (meaning development and redevelopment is not occurring in an expeditious manner), and that several pollutants do not have known BMPs effective at removing/reducing the content (i.e., metals, toxics, pesticides), the effectiveness of BMPs should not be required and instead should only be used for research, development, and progress of BMP testing.</p>
10	40	A.2.b	<p>Staff proposal states: "Permittee must submit a statement certified by its chief legal counsel that the Permittee has the legal authority within its jurisdiction to implement... Each permittee shall submit this certification annually..."</p> <p>To sign this statement, chief counsel will have to analyze this 500 page Permit, analyze the municipal code, and prepare a statement as to whether actions can be commenced and completed in the judicial system. An annual certification is redundant and unnecessary in addition to being extraordinarily costly. At most, legal analysis should be done once during the Permit term. Otherwise, please delete this requirement.</p>
11	40	A.3	<p>The staff proposal includes a section on Fiscal Resources. Most MS4s do not have a storm water quality funding source, and even those that do have a funding source are not structured to meet the requirements of the proposed MS4 requirements (for instance, development funds may be collected to construct an extended detention basin, but not for street sweeping, catch basin cleaning, public right-of-way structural BMP's, etc).</p>
12	40	A.3.a	<p>Staff proposal states: "Each Permittee shall exercise its full authority to secure the fiscal resources necessary to meet all requirements of this Order"</p> <p>This sentence has no legally enforceable standard. What exactly does the exercise of "full authority" mean when the exercise of a city's right to tax comes with consequences and no guarantee of success? Municipal entities must adjust for a variety of urgent needs, some federally mandated in a manner that cannot be ignored. So, if we seek the fiscal resources to fund the programs required in the permit and the citizens say "No", then a municipality will have a limited ability to comply with "all requirements of this Order". Can the language be changed to state: "Each permittee shall make its best efforts given existing financial and budget constraints to secure fiscal resources necessary to meet all requirements of this Order"?</p>
13	40	A.3.c	<p>Staff proposal states: "Each permittee shall conduct a fiscal analysis... to implement the requirements of this Order."</p> <p>Most MS4s do not have adequate funding to meet all requirements of the Tentative MS4 Permit. A Permit requirement to secure funding is overreach. Please delete this section.</p>
14	58	D.4.a.i.(2)	<p>Staff proposal states: "To measurably change the waste disposal and storm water pollution generation behavior of target audiences..."</p> <p>Define the method to be used to measure behavior change. As written, this requirement is vague and open to interpretation.</p>
15	60	D.4.d.i.(2),(b)	<p>Staff proposal states: "... including personal care products and pharmaceuticals"</p> <p>The stormwater permit should pertain only to stormwater issues. Pharmaceuticals getting into waters of the US are typically a result of waste treatment processes. All references to pharmaceuticals should be removed from this MS4 permit.</p>
16	60	D.4.d.i.(3)	<p>The Regional Board assumes that all of the listed businesses will willingly allow the City to install displays containing the various BMP educational materials in their businesses. If the businesses do allow the installations then the City must monitor the availability of the handouts because the business will not monitor or keep the display full or notify the City when the materials are running out. If the business will not allow the City to display the educational material must we document that denial? Will that denial indicate that the City is not in compliance?</p>
17	63-66	D.5.d-f	<p>These sections pertain to inspecting critical source facilities where it appears the intent is to transfer the State's Industrial General Permit inspection and enforcement responsibilities to municipalities through the MS4 permit. We request eliminating these sections OR revise to exclude all MS4 permittee responsibility for NPDES permitted industrial facilities.</p>

19	67	D.6.a.(3)	The stated objective of mimicking the redevelopment water balance is not consistent with the requirement that the entire design storm be managed onsite. Please consider allowing subtracting the redevelopment runoff from the design volume or flow.
20	69	D.6.b.i.(1),(a)	Please clarify whether this paragraph applies to what is existing on the site or what is being redeveloped.
21	70	D.6.c.(2),(b)	Consider removing the "whichever is greater" wording. The two methods are considered equivalent and the 85 th percentile was calculated to be the 0.75-inch for downtown Los Angeles. Currently, the 0.75-inch storm criterion has been used throughout the County for uniformity. While requiring the 85 th percentile to be used instead appears more technically appropriate, requiring calculating both criteria and using the greater value appears punitive.
22	70	D.6.c.(4)	Consider deleting this sentence since it is redundant with item VI.D.6.c.1.1 and green roofs are not feasible not only based on the provisions of this order but also due to regional climate and implementability considerations.
23	70	D.6.c.ii.(2)	Add "lack of opportunities for rainwater use" as one of the technical infeasibility criteria to acknowledge the fact that most of the type of development projects cannot utilize the captured volume of water.
24	72	D.6.c.iii.(1),(b)-(f)	The requirement for raised underdrain placement to achieve nitrogen removal is inconsistent with standard industry designs and is based on limited evidence that this change will improve nitrogen removal. Furthermore, by raising the underdrain, other water quality problems may result such as low dissolved oxygen and bacterial growth due to the septic conditions that will be created.
25	72	D.6.c.iii.(2),(b)	The requirement to provide treatment for the project site runoff when offsite mitigation is provided is punitive and unfair considering that an alternative site needs to be retrofitted to retain the equivalent volume. Please consider removing the on-site requirement when mitigation occurs in an offsite location.
26	72	D.6.c.iii.(4)	The conditions listed for offsite projects are overly restrictive. Also, considering legal and logistical constraints regarding offsite mitigation, this alternative is not very feasible.
27	75	Table 11	The concept of establishing benchmarks for post construction BMPs was initially developed in the 2009 Ventura MS4 permit. However there is a significant different between the permits. The Ventura County's NPDES MS4 permit requires the project developer to determine the pollutant of concern(s) for the development project and use this pollutant as the basis for selecting a top performing BMP. In the case of the Draft Order, there is no determination of the pollutant of concern for the development project. Instead post construction BMPs must meet all the benchmarks established in Table 11. Unfortunately, no one traditional post construction BMP (non-infiltration BMPs) is capable of meeting all the benchmarks and thus the developer will not be able to select a BMP. We recommend that provision VI.D.6.c.iv.(1)(a) (page 74) be modified so that the selection of post construction BMPs is consistent with the Ventura permit and is based on the development site's pollutant of concern(s) and the corresponding top performing BMP(s) that can meet the Table 11 benchmarks.
28	75	D.6.c.v.(1),(a),(i)	Erosion Potential (Ep) is not a widely used term in our region, and may not be the most appropriate term to be used as an indicator of the potential hydromodification impacts.
29	76	D.6.c.v.(1),(a),(ii)	The requirement for development of a new Interim Hydromodification Control Criteria is unnecessary considering there is already peak storm control requirements in the existing MS4 Permit and that the State Water Board is finalizing the statewide Hydromodification Policy.
30	77	D.6.c.v.(1),(c),(i)-1	The requirement to retain on site the 95 th percentile storm is excessive and inconsistent with all other storm design parameters that appear in this order. It may also not be an appropriate storm in terms of soil deposits for the soil deprived streams such as Santa Clara Creek. Again, consider referring to the statewide policy for a consistent and technical basis of the hydromodification requirements.
31	80	D.6.d.i.1	The requirement of 180 days for the "Local Ordinance Equivalence" may be difficult to be met due to the typical processing and public review period for changes to local municipal codes.
32	83	D.7.a.iii	Consider revising this provision to require immediate start of this effort instead.
33	83	D.7.d	MEP should be changed to BAT and BCT for consistency with the State's General Construction Permit (GCASP).
34	83	Table 12	Consider introducing a minimum threshold for construction sites such as those for grading permits. As proposed, minor repair works or trivial projects will be considered construction projects and will unnecessarily be subject to these provisions.
35	84-91	D.7.e-i	Some of the listed BMPs will not be applicable for all construction sites. Consider replacing the title of Table 12 to "Applicable Set of BMPs for Construction Sites". All these provisions refer to construction sites of greater than one acre. These sites are subject to the General Construction Permit provisions and within the authority of the State agencies. Towards ensuring compliance with these regulations, the State is collecting a significant fee that covers inspection and tracking of these facilities. We are disputing the need to establish an unnecessary parallel enforcement scheme for these sites. This is consistent with the RWQCE member(s) voice at one of the workshops.
36	84-91	D.7.g-i	Refer to the State's GCASP and its SWPPP requirements to avoid duplicity.
37	85	D.7.g.ii.(9)	There is no need to introduce a new term/document of Erosion and Sediment Control Plan for construction sites that are already subject to GCASP's SWPPP requirements.
38	87	Table 13	Delete. This table is the same as Table 12.
39	90	Table 17	The suggested inspectors could not possibly be accommodated based on current resources because of the concurrent need to visit all sites. However, if the GCASP funding is transferred for locally-based enforcement, an increase number of inspections may be accommodated.
40	90	D.7.ii.(2)(a)	Consider deleting this requirement as being unnecessary. The placement of BMPs may not be needed based on the season of construction and the planned phases.
41	94	D.8.d	If there is a specific pollutant to address, retrofitting or any other BMP would best be accomplished through a TMDL, which is for the Permittees to determine rather than a prescribed blanket approach. As written, this is too broad of a requirement with unknown costs that is attempting to solve a problem before there is a problem. Please delete VI.D.8.d.
42	94	D.8.d.i	Staff proposal states: "Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.8.D... The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards." This process would require land acquisition, a feasibility analysis, no impacts to existing infrastructure, proper soils, and support of various interested stakeholders. Additionally, if a property or area is being developed/redeveloped, retrofitting the site for water quality purposes makes sense, but not for an area where no development/redevelopment is planned. Finally, the LID provisions have already included provisions for off-site mitigation, in which we recommend that regional water quality projects be considered in lieu of local-scale water quality projects that will prove difficult to upkeep, maintain, and replace, let alone have existing sites evaluated as feasible. For these reasons, this requirement should be removed.

43	95	D.8.d.v	Any retrofit activities should be the result of either an illicit discharge investigation or TMDL monitoring follow-up and will need to be addressed on a site-by-site basis. A blanket effort as proposed in a highly urbanized area is simply not feasible at this time.
44	96	D.8.e.i	Staff proposal states: "Each Permittee shall implement the following measures for...flood management projects"
45	102	D.8.h.viii.(1)	Flood management projects need to be clearly defined. This requirement appears to be an "end-run" around the lack of catch basin structural BMPs in areas not covered by Trash TMDLs. The requirement has the potential to be extraordinarily economically burdensome. If an area is NOT subjected to a Trash TMDL, then the need for any mitigation devices is baseless. The MS4 permit requirements should not circumvent nor minimize the CWA 303(d) process.
46	103	D.8.h.ix	Staff proposal requires: "Infiltration from Sanitary Sewer to MS4 / Preventive Maintenance..."
47	106-110	D.9	The State Water Board has implemented a separate permit for sewer maintenance activities. Additional sewer maintenance requirements are redundant and unnecessary. Please delete this requirement.
48	107	D.9.b.i	A definition of "outfall" is required for clarity. An "outfall" for purposes of "non-stormwater outfall-based monitoring program" should be defined as "major outfall" pursuant to Clean Water Act 40 CFR 122.26. Please revise each mention of "outfall" to read "major outfall" when discussing "non-stormwater outfall-based monitoring program".
49	107	D.9.b.iii.(1)	Please revise the proposed language to "Permittee/Permittees shall develop written procedures for conducting investigations to identify the source of suspected illicit discharges, including procedures to eliminate the discharge once source is located." It is not known if a discharge is illicit until the investigation is completed. "illicit discharges suspected of being sanitary sewage... shall be investigated first." ICID inspectors should be allowed to make the determination of which event should be investigated first. For example, a toxic waste spill or a truck full of gasoline spill should take precedence over a sewage spill. This requirement should be amended to the "most toxic or severe threat to the watershed" shall be investigated first.
50	Attachment A	Definitions	The Definition of: "Development", "New Development" and "Re-development" should be added. The definitions in the existing permit should be used: "Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety. "New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision. "Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety. The last of the three "routine maintenance" activities listed above should exclude projects related to existing streets since typically you are not changing the "purpose" of the street to carry vehicles and should not be altered. The bioinfiltration definition limits the systems that allow incidental infiltration. Many municipal ordinances and established engineering practices will not allow even incidental infiltration if the planter boxes are located adjacent to a building structure. Thus, this definition will exclude the most common types of planter boxes which logically have to be placed next to the building to collect roof runoff. For this reason, consider allowing bioinfiltration to include planter boxes without incidental infiltration since they may be the only applicable BMPs. Some small cities do not have digital maps. In the "General" category of Section 11, please provide a 1 year time schedule for cities to create digital maps OR provide the municipality the ability to develop comprehensive maps of the storm sewer system in any format. Omit the comment, "Each mapped MS4 outfall shall be located using geographical positioning system (GPS) and photographs of the outfall shall be taken to provide baseline information to track operation and maintenance needs over time." This requirement is cost prohibitive and of little value because many City outfalls are underground and could not be accurately located or photographed. Photographs of outfalls in channels have little value since data required is already included on "As-Built" drawings. Geographic coordinates can easily be obtained using Google Earth or existing GIS coordinate systems. "The contributing drainage area for each outfall should be clearly discernible..." The scope of this requirement would involve thousands of records of drainage studies. The Regional Board should be aware that this requirement would be very labor intensive, time consuming, and very costly. Storm drain maps should show watershed boundaries which by definition provide the location and name of the receiving water body. Please revise (3) to read "The name of all receiving water bodies from these MS4 major outfalls identified in (1)." The LA Permit Group proposes "non-stormwater outfall-based monitoring program" to be flow based monitoring. Please revise item (4) of 11.c.i. to read "(4) monitoring flow of unidentified or authorized non-stormwater discharges, and..." "Monitoring of unknown or authorized discharges" "Authorized" discharges are exempted or conditionally exempted for various reasons. Monitoring authorized discharges is monitoring for the sake of monitoring and offers no clear goal or water quality benefit. Please delete this requirement. If the source of a discharge is unknown, then monitoring may be used as an optional tool to identify the culprit.
51	Attachment A, Page 1	Definitions	
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Document Name: Attachment E - Monitoring and Reporting Program Draft Tentative Order - July 2012

Agency/Reviewer: LA Permit Group

Comment	Doc. Reference	Section	Comments
No. 1	Page Multiple	Section Multiple	July-12 The use of the HUC-12 watershed for limits is a good start but there needs to be some flexibility in its use to insure that the HUC-12 truly reflects the actual watershed boundary.
2	Page Multiple	Multiple	The rain gages to be used for determining a wet versus dry weather day should be selected by the agencies and approved by the Regional Board. Since monitoring plans will be on a regional basis the use of 50% of County rain gages in a watershed may not be necessary. Plus, predictions do not necessarily use County rain gages.
3	Attachment E, Page 3	II.A.1	Omit as a primary objective to assess the "biological impacts" of discharges from the MS4. The MS4 Permit is to regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to assess biological impacts of discharges and to set water quality regulations to prevent adverse biological impacts. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
4	Attachment E, Page 4	II.E.1	Monitoring requirements relative to MS4 permits are limited to effluent discharges and the ambient condition of the receiving water, as §122.22(C)(3) indicates. The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicatby parameters continues to attain water quality standards. The only definition of "ambient" monitoring is defined by SWAMP protocol as being 72 hours after a storm event. Regarding monitoring purposes "b" and "c" assessing trends in pollution concentrations should be: (1) limited to ambient water quality monitoring; and (2) Regional Board's surface water ambient monitoring program (SWAMP) should be charged with this responsibility. MS4 permittees fund SWAMP activities through an annual surcharge levied on annual MS4 permit fees. Recommended Corrective Action: Clarify that RWL monitoring is only in the ambient condition as defined by SWAMP and that ambient monitoring is performed as part of the SWAMP and is not the responsibility of MS4 permittees.
5	Attachment E, Page 4	II.E.1.c	Omit item c. The MS4 Permit is to regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to "Determine whether the designated beneficial uses are fully supported as ...aquatic toxicity and bio-assessment monitoring." This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
6	Attachment E, Page 4	II.E.2.a	Cutfall monitoring for stormwater for attainment of municipal action levels (MALs) would be acceptable were it not for their purpose. MALs represent an additional monitoring requirement for non-TMDL pollutants. MALs should really be used to monitor progress towards achieving TMDL WLAs that are expressed in the receiving water. Instead, Regional Board staff has chosen to create another monitoring requirement, without regard for cost or benefit to water quality or to permittees. Non-TMDL pollutants should not be given special monitoring attention until it has been determined that they pose an impairment threat to a beneficial use. Such a determination needs to be done by way of ambient monitoring performed by the Regional Board SWAMP. The resulting data could then be used to develop future TMDLs, if necessary. Furthermore, many of the MAL constituents (both stormwater and non-storm water) listed in Appendix G, are included in several TMDLs such as metals and bacteria. This is, of course, a consequence of the redundancy created by two approaches that are intended to serve the same purpose: protection of water quality. Recommended Correction: Either utilize MALs, in lieu of numeric WQBELs, to measure progress towards achieving TMDL WLAs expressed in the receiving water or eliminate MALs entirely.
7	Attachment E, Page 4	II.E.3.a	Regarding "a," This requirement is redundant in view of the aforementioned MALs and in any case is not authorized under federal stormwater regulations. 402(p)(B)(ii) of the Clean Water Act only prohibits discharges to the MS4 (streets, catch basins, storm drains and intra MS4 channels), not through or from it. This applies to all water quality standards, including TMDLs. Nevertheless, compliance with dry weather WQBELs can be achieved through BMPs and other requirements called for under the illicit connection and discharge detection and elimination (ICDDE) program, or requiring impermissible non-stormwater discharges to obtain coverage under a permit issued by the Regional Board. Recommended Correction: Delete this requirement and specify compliance with dry weather WLAs, expressed in ambient terms, through the implementation of the ICID program.
8	Attachment E, Page 4	II.E.3.b	With regard to "b", see previous responses regarding MALs and the limitation of the non-stormwater discharge prohibition to the MS4.
9	Attachment E, Page 4	II.E.3.c	Recommended Correction: Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4; and determine whether MALs or TMDLs are to be used to protect receiving water quality. Regarding "c", as mentioned, non-stormwater discharges cannot be applied to receiving water limitations because they are only prohibited to the MS4, not from or through it. Recommended Correction: Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4.

10	Attachment E, Page 4	III.E.4	<p>Omit item 4. Monitoring of Development/Re-development BMPs is the responsibility of the Developers. Requirements for monitoring Developer BMPs should be part of Section VI.D.6. Planning and Land Development Program and the responsibility of the Developer.</p> <p>The purpose of this requirement is not authorized under federal stormwater regulations as it relates to monitoring. Requiring such monitoring is premature given the absence of outfall monitoring in the current and previous MS4 permits that would characterize an MS4's pollution contribution relative to exceeding ambient water quality standards. There is nothing in federal stormwater regulations that require monitoring on private or public property. Monitoring, once again, is limited to effluent discharges at the outfall and to ambient monitoring in the receiving water.</p> <p>Beyond this, monitoring for BMP effectiveness poses a serious challenge to what determines "effectiveness" -- effective relative to what standard? It is also not clear how such monitoring is to be performed.</p> <p><i>Recommended Correction:</i> Delete this requirement.</p> <p>Omit item 5. The MS4 Permit is to regulate discharges to receiving water. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to conduct Regional Studies for Southern California Monitoring Coalition, bio-assessment and Pyrethroid pesticides. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.</p> <p>Requiring 85 jurisdictions to conduct regional monitoring is duplicative and inefficient and should be conducted by a Regional authority.</p> <p>Regional studies also lie outside the scope of the MS4 permit. However, because federal regulations require ambient monitoring in the receiving water, a task performed by the Regional Board's SWAMP, regional watershed monitoring for aforementioned target pollutants can be satisfied through ambient monitoring. This can be accomplished with little expense on the part of permittees by: (1) using ambient data generated by the Regional Board SWAMP; (2) re-setting the County's mass emissions stations to collect samples 2 to 3 days following a storm event (instead of using a flow-based sampling trigger); and (3) using any data generated from existing coordinated monitoring programs (e.g., Los Angeles River metals TMDL CMP), provided that the data is truly ambient.</p>
11	Attachment E, Page 5	III.E.5	<p>Omit Items F. & G. Specifying Sampling Methods and Analytical Procedures in the permit adds unnecessary liability for Cities for work that is already described in USEPA Protocols and per approved TMDLs. These items should be combined and state to follow USEPA Protocols or per approved TMDLs.</p> <p>There is a typo for item 3. Item 3. should read "...requirements identified in Part XVIII.A.5. and Part XVIII.A.7 of this MRP."</p> <p>More time is needed to prepare Coordinated Integrated Monitoring Plans due to the number of agencies involved. Since existing monitoring programs will proceed as Coordinated Integrated Monitoring Plans are being prepared, then there is no need for accelerated schedules. Revise item 1. to provide twelve (12) months for each Watershed Group to submit a Memorandum of Understanding to work with other agencies for a Coordinated Integrated Monitoring Plan. A letter of intent allows a Permittee to drop out of the process at any time and 12 months are required to process a Memorandum of Understanding with County and State agencies.</p> <p>Revise item 2. to require "Each Permittee not participating in a Coordinated Integrated Monitoring Plan to submit an Integrated Monitoring Plan..."</p>
12	Attachment E, Pages 5-6	III.F & G	
13	Attachment E, Page 6	III.H.3	
14	Attachment E, Pages 7-8	IV.C.1	
15	Attachment E, Page 8	IV.C.2	
16	Attachment E, Page 8	IV.C.3	<p>Revise to allow participating Permittees 24 months to submit a Coordinated Integrated Monitoring Plan. It will take a minimum of 12 months to process a Memorandum of Understanding with County and State agencies and that agreement is required before any Permittee will award a contract to a consultant to prepare a Coordinated Integrated Monitoring Plan. It takes 3 months to issue Request for Proposals and award a contract and then 9 months for a consultant to prepare a Coordinated Integrated Monitoring Plan. Since existing monitoring programs will proceed as Coordinated Integrated Monitoring Plans are being prepared, then there is no need for accelerated schedules.</p>

Revise to allow 9 months after approval of an IMP or CIMP by the Executive Officer to commence monitoring. It takes 3 months to issue Request for Proposals and award a contract for monitoring. It takes an additional 6 months to obtain permits from the Los Angeles County Flood Control District to access monitoring locations on their systems.

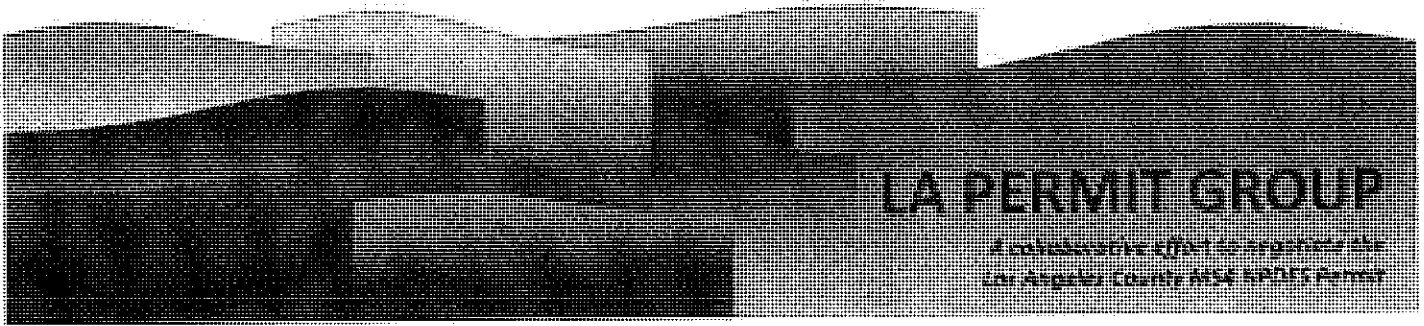
18	Attachment E, Page 8	IV.C.7	<p>Both the current permit shoreline monitoring program (CI-6948) and the SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) are being incorporated into the new permit. The CI-6948 shoreline monitoring requirements, Section II.D – page T-11, is redundant to the CSMP. All stations monitored in the CI-6948 are also monitored in the CSMP. Furthermore, the SMBBB TMDL specifies that the agencies are to select sampling frequency and the CSMP states that the agencies have selected weekly sampling frequency. However, CI-6948 requires several stations to be monitored up to 5 days per week and with the addition of the CSMP additional stations will be monitored two days per week.</p> <p>Paragraph II.D.b) of the CI-6948 shoreline monitoring section specifies that the sampling frequency at 28th Street (DHS 113), also SMB-5-2, and Herondo storm drain (DHS 115), also SMB-6-1, be increased to 5 times per week. Paragraph II.D.e) states that monitoring sites are to be monitored 5 days per week if the historical water quality is worse than the reference beach. However, no evidence was presented to the responsible agencies that this was the case for the SMB-5-2 or 6-1.</p> <p>An evaluation of historical data was presented by the Regional Board Staff Report for the reconsideration of the SMBBB TMDL dated May 2012. Further evaluation of this data shows that SMB-5-2 and SMB-6-1 should not be subject to the increase frequency for the following reasons:</p> <ol style="list-style-type: none"> 1. Of the 67 stations being monitored as part of the CSMP, SMB-5-2 and 6-1 are ranked 57 and 43 respectively in the percent of exceedances during the summer dry weather period. 2. 37 stations being monitored only weekly or two days per week had a higher summer-dry weather exceedance percentage than SMB-6-1. 3. The Reference Beach monitoring station (SMB-1-1) had a summer dry weather period exceedance percentage of 10.2% versus 6.9% and 3.2% for SMB-5-2 and 6-1, respectively. 4. The Reference Beach monitoring station (SMB-1-1) had an average year-round exceedance percentage of 12.1% versus 14.6% and 11.4% for SMB-5-2 and 6-1, respectively. Although exceedance rate for SMB 5-2 is higher than the Reference Beach monitoring station based on year round results, it is lower during the critical summer-dry weather period. 5. Of the 6 stations being monitored five days per week SMB-6-1 and 5-2 have the lowest summer dry weather period exceedance percentage (top 6 ranged from 40.9% to 8.5% compared to 6.9% and 3.2% for SMB-5-2 and 6-1). <p>In addition, the inclusion of both the CI-6948 shoreline monitoring program and CSMP into the permit will result in 5 (SMB-5-1, 5-3, 5-5, 6-5, and 6-6) of the other 9 monitoring stations in SMBBB TMDL Jurisdictional Groups 5 and 6 being monitored 2 days per week which is not the case for any of the other CSMP stations.</p> <p>For all of the above reasons, the shoreline monitoring provisions of CI-6948 should be removed from the new permit monitoring program. However, at a minimum, paragraph D.1.b) should be removed and paragraph D.1.e).(1) should be modified to remove stations S13 (SMB-5-1), S14 (SMB-5-3) S15 (SMB-5-5), S17 (SMB-6-5) and S18 (SMB-6-6).</p> <p>The following is proposed wording modification to Attachment E, Section IV.C.7:</p> <p>"7. Monitoring requirements pursuant to Order No. 01-182, except Section D.1.b) is removed and Section D.1.e).(1) is modified to removed sites S13, S14, S15, S17 and S18 of the Monitoring and Reporting Program - CI-6948, shall remain in effect until the Executive Officer of the Regional Water Board approves a Permittee(s) IMP and/or CIMP plan(s)."</p>
19	Attachment E, Page 14	VI.C.1.b	Monitoring should be performed per approved IMP or CIMP or approved TMDL. The IMP and CIMP should identify rain gauges to use in the appropriate watershed.
20	Attachment E, Page 15	VI.C.1.d	Omit iv. The TMDLs will specify if TSS or SSC monitoring is required, otherwise sediments are needed for beach replenishment and the naturally occurring transport of sediments should not be regulated.
21	Attachment E, Page 15	VI.C.1.d	Omit vi. This imposing of State and Federal responsibilities on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
22	Attachment E, Page 15	VI.D.1.a	Omit the requirement for "One of the monitoring events shall be during the month with the historically lowest instream flows." This data does not exist and it would be simpler to specify the historically driest month.
23	Attachment E, Page 15	VI.D.1.b	Revise item i. and ii. to simply be on days with no measurable rain. There are sufficient days of no measurable rain in Southern California and any rain event could result in isolated stormwater run off.
24	Attachment E, Page 16	VII.A	Revise the description to include database. "The IMP and/or CIMP plan(s) shall include a map and/or database of the MS4 to include the following information:" GIS maps all come with database(s) that include much of the required information.
25	Attachment E, Page 17	VIII.A.2.e	Include the option to monitor "upstream of the actual outfall or downstream of a political boundary". Sometimes the best location to do monitoring is at the next manhole downstream from a city boundary.
26	Attachment E, Page 17	VIII.B.1.a	Omit "except aquatic toxicity, which shall be monitored once per year..." This imposing of State and responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
27	Attachment E, Page 18	VIII.B.1.b	Omit item ii. and iii. Monitoring should be performed per approved IMP or CIMP or approved TMDL.
28	Attachment E, Page 18	VIII.B.1.c	Omit item iv. The TMDLs will specify if TSS or SSC monitoring is required, otherwise sediments are needed for beach replenishment and the naturally occurring transport of sediments should not be regulated.
29	Attachment E, Page 18	VIII.B.1.c	Omit vi. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.
30	Attachment E, Page 19	IX.A.2	Include "natural flows" or "natural sources" as a potential source of non-storm water flow.
31	Attachment E, Page 22	IX.E.2	Revise last sentence to read, "100% of the outfalls in the inventory within 5 years..."

32	Attachment E, Page 22	IX.F.2	Omit the requirement to report to the Regional Board "within 30 days of determination" because there are too many report submittals that could lead to a Notice of Violation that will have no impact on water quality. Reporting source identifications in the annual report provides central location for submittals.
33	Attachment E, Page 23	IX.G.3 & 4	Outfalls not subject to dry weather TMDLs that have significant dry weather flows should have continuous flow monitoring done for a quarter with water quality sampling done once at the beginning of that time period. If the water quality sampling indicates pollutant concentrations that exceed water quality standards, then the IC/ID investigation procedures should begin. If no water quality standards are exceeded or the IC/ID investigation eliminates the source of pollutants, then that flow has been demonstrated NOT to cause or contribute to pollutant loading and should be stopped. To continue monitoring a site that is known NOT to cause or contribute to pollutant loading is a waste of resources and an un-funded mandate.
34	Attachment E, Page 24	X	This section should be moved to Section VII.D.6.d.iv. for clarity.
35	Attachment E, Page 25	XI	Omit this section. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform Pyrethroid and SCCWRP regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
36	Attachment E, Page 28	XII	Omit this section. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
37	Attachment E, Page 38	XIV.I.1 & 2	It is not reasonable to force Permittees to make changes to approved Monitoring and Reporting Programs based on the whim of an "interested" party or "as deemed necessary by EO". This provides unlimited power to interested parties or EO. Recommend these items be revised to include a caveat that there would be no additional costs or as approved by Regional Board, to make those changes open and transparent.
38	Attachment E, Page 39	XIV.M	Omit section M. as it is redundant to section L.
39	Attachment E, Page 44	XVIII.A.5	Omit items b. & c. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an un-funded mandate. Please provide legal justification for this transfer of jurisdiction.
40	Attachment E, Pages 49-52	XIX.B	Only include schedules for IMP and CIMP for USEPA established TMDLs and revise those schedules to be 9 months for IMP and 24 months for CIMP. Having due dates for Monitoring and Reporting plans for IMP and CIMP past the due date established by the TMDL creates confusion.

LA Permit Group Comments on the Draft Order No. R4-2012-XXXX; NPDES Permit NO. CA5004001

Exhibit C:

LA Permit Group Comment Letters re: Working Proposals



February 9, 2012

Sam Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

SUBJECT: *LA Permit Group Comments Regarding the 1/23/12 Workshop on Monitoring and TMDLs*

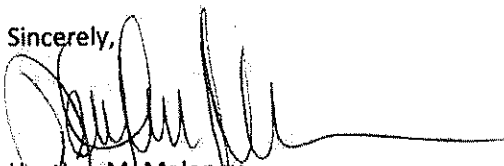
Dear Mr. Unger:

The LA Permit group appreciates the opportunity to provide comments regarding the Regional Board's January 23, 2012 Workshop on the proposed Monitoring and TMDL programs for the upcoming Los Angeles County MS4 NPDES permit. Detailed comments and recommendations regarding each of these programs are attached (Monitoring Program Comments – Exhibit A and TMDL Program Comments – Exhibit B). The LA Permit Group recognizes that the upcoming MS4 NPDES permit is a very difficult and complicated permit to develop, especially given the integration of many TMDLs. However, the permit must contain provisions that are economically achievable and sustainable and that will not expose permittees to unreasonable compliance issues. We look forward to continued discussion and collaboration with you and your staff in order to cooperatively develop economically achievable and sustainable permit provisions.

The LA Permit Group is a collaborative effort developed to negotiate the Los Angeles County MS4 NPDES Permit. Over 60 Los Angeles County municipalities are actively participating in the effort to develop and provide comments and recommendations throughout the MS4 NPDES Permit development process. Comments and recommendations are developed by each of the LA Permit Group's four Technical Sub-Committees (Land Development, Reporting & Core Programs, Monitoring, and TMDLs) which are then approved by the LA Permit Group; the group's consensus is represented by the Negotiations Committee. The LA Permit Group's comments and recommendations contained in Exhibits A and B of this letter have been developed by the Monitoring and TMDL Technical Sub-Committees and were approved by the LA Permit Group at our February 8, 2012 meeting.

Thank you for the opportunity to comment on the proposed Monitoring and TMDLs programs and we look forward to meeting with you to discuss our comments and recommendations presented in this letter. Please feel free to contact me at (626) 932-5577 or hmaloney@ci.monrovia.ca.us if you have any questions regarding our comments.

Sincerely,



Heather M. Maloney
Chair, LA Permit Group

cc: LA Permit Group
Deborah Smith, Los Angeles Regional Water Quality Control Board
Renee Purdy, Los Angeles Regional Water Quality Control Board
Ivar Ridgeway, Los Angeles Regional Water Quality Control Board
San Gabriel Valley Council of Governments
Senator Ed Hernandez

**LA Permit Group
Comments on Monitoring Provisions Proposed at RWQCB Workshop on 1/23/12**

The LA Permit group appreciates the opportunity to provide comments regarding the Regional Board's 1/23/12 workshop on the proposed monitoring program for the upcoming NPDES permit. The comments are organized to provide our overall general comments regarding the monitoring program and then our specific comments on the details presented in the workshop.

General Comments

In our 11/10/11 presentation to the Regional Board, The LA Permit Group identified an Integrated Watershed Monitoring Program (IWMP) approach supporting a comprehensive and focused monitoring program. Although the Board staff indicated interest in the approach, we were disappointed to see the approach was not well captured in the 01/23/12 workshop. We still would submit that the overarching monitoring program should be based on the concepts found in an IWMP (see attached proposal for an IWMP, p.5 & 6).

Regional Monitoring Programs

1. Duplicative efforts. The proposed regional monitoring programs appears to duplicate ongoing studies/activities by other permittees in southern California, thus, we question what new and useful information will be provided that is not already being developed.

Recommendation: Modify the requirement for regional monitoring programs to account for existing and on-going regional monitoring efforts (also see our Special Comments on this issue).

Stormwater and Non-stormwater Monitoring Programs

1. Need to Promote a Watershed Approach. The proposed monitoring strategy appears to minimize instead of promote a watershed approach to monitoring and provides little insights into the water quality issues within a watershed. Instead it focuses exclusively on individual permittees.

Recommendation: It is recommended that the monitoring program be based on a watershed and TMDL and that it:

- a. evaluates the current conditions in impaired water bodies (identified by effective TMDLs),*
- b. facilitates the attainment of WLAs and assessment of effectiveness and improvement of BMPs to effectively address each impairment to the extent it is potentially contributed by the MS4, and*
- c. identifies the extent to which the impairment may be caused by factors or sources other than discharges from the MS4*
- d. promotes the IWMP and provides time schedule incentives.*

The LA Permit Group has developed a position paper that captures this fundamental strategy (see attachment). The strategy, we believe, would better serve as the framework for the monitoring program than the one currently being considered by the Regional Board.

2. Lack of Clear Goals and Objectives. The proposed strategy for stormwater and non-stormwater lacks well defined goals and management questions. Instead the strategy appears to be a resource-intensive, far reaching attempt to collect monitoring data for collection sake without any explanation as to how the data will be used to guide management decisions. The monitoring program must be designed to answer specific management questions and/or objectives. The program must provide a comprehensive but focused attempt to address a number of management

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Comments on 1/23/12 LARWQCB Monitoring Program Presentation
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questions. Furthermore the proposed strategy isolates the stormwater/non-stormwater monitoring from other elements of the monitoring program such as receiving water and tributary monitoring. As a result it is difficult to understand the overall relationships between the various monitoring efforts and limits the Permittees' ability to direct their monitoring efforts according to local and watershed specific concerns.

Recommendation: We strongly recommend that the Regional Board revisit the stormwater monitoring programs to incorporate an integrated watershed monitoring strategy that addresses water quality management based questions and TMDLs. Similarly, we recommend that the monitoring program reflect an adaptive management approach such that we have the ability to modify our monitoring efforts as monitoring data and information are gathered.

Specific Comments

Although we have fundamental concerns with the overall approach provided in the 1/23/12 workshop and strongly recommend modifications in the approach, we have none-the-less developed specific comments on the Regional Board approach. These comments are provided below.

Regional Monitoring Programs

1. **Pyrethroid Study.** We suggest that the Surface Water Ambient Monitoring Program would be a better vehicle for assessing the overall impacts of pesticides (pyrethroids) in the watersheds than the MS4 stormwater programs. This is especially true since pyrethroid is a statewide issue and not just a potential Los Angeles area issue.
2. **Hydromodification Study.** Many municipalities discharge directly or indirectly into concrete channels thus calling into question the value of a hydromodification study for these municipalities. Furthermore, the Southern California Coastal Water Research Project (SCCWRP) has a number of studies focused on hydromodification including one that assesses the impacts of hydromodification and identifies management practices that could offset the impacts¹. Thus we would suggest that the proposed hydromodification study for the LA permittees be eliminated and instead allow SCCWRP efforts in this area to be the base studies.
3. **Low Impact Development Study.** As with the hydromodification study we believe that there is already ongoing research with LID and that the proposed study for the LA permittees is unwarranted. The Southern California Monitoring Coalition had previously identified this area for research and received grant monies to assess the effectiveness of LID strategies. This work was recently conducted by the SCM. In addition, the SCM Coalition conducted a study to identify impediments to LID implementation and this study is also just now being completed. Thus we question the value of LA permittee specific studies for LID.

Recommendation: Modify the requirement for regional monitoring programs to account for existing and ongoing regional monitoring efforts.

1

<http://www.sccwrp.org/ResearchAreas/Stormwater/Hydromodification/AssessmentAndManagementOfHydromodification.aspx>

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Stormwater and Non-stormwater Monitoring Programs

1. Clear Logic Needed for Deciding Monitoring Efforts. The logic for both stormwater and non-stormwater monitoring efforts is confusing and in some cases appears to be in conflict. Furthermore, there appears to be little nexus between TMDLs and the proposed monitoring effort.

Recommendation: It is absolutely necessary that a logical decision tree be developed to guide the Permittees. The development of a decision tree could be part of the integrated watershed monitoring plan.

2. Confusing objectives for non-stormwater monitoring. The proposed non-stormwater monitoring (slides 21-23²) does not address the stated requirement in slide 24 to determine the relative flow contribution of other permitted discharges. Also it is unclear what will be gained by the extensive monitoring effort. Furthermore the time line proposed to complete this work is woefully inadequate (9 months). If the purpose of the non-stormwater monitoring is to assess the categorical exemptions, then the current framework is inadequate.

Recommendation: We recommend that a well defined regional study be incorporated into the IWMP that already includes flow monitoring in numerous locations to assess categorical exemptions instead of the each permittee based approach currently proposed.

3. Aquatic Toxicity Monitoring. Slide18 indicates that stormwater monitoring includes aquatic toxicity monitoring. We would submit that it is premature to conduct outfall toxicity monitoring until it has been established that toxicity is present in the receiving water. Furthermore we would submit that should toxicity monitoring be required, acute toxicity is the appropriate toxicity test given the short duration of stormwater discharges.

Recommendation: Toxicity monitoring should be acute and be limited to the receiving water and not be a part of an outfall monitoring program unless dictated by a TMDL. Aquatic Toxicity monitoring is required by a number of TMDLs and could be extracted from IWMP.

4. Technical concerns include the following:
 - a. Unclear how baseline non-stormwater flows are established.
 - b. Possible conflicting criteria regarding the use of land uses to identify outfalls and the minimum number of outfalls (slides 15-16).
 - c. Need better definition for "significant" non-stormwater flows. The requirement noted in slide 21 regarding 10% above the lowest rolling average needs to be evaluated more closely as it appears that all outfalls will qualify under this criteria.

² Slide numbers are based on Regional Board 1/23/12 presentation by PG Environmental.

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Comments on 1/23/12 LARWQCB Monitoring Program Presentation
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- d. When are field measurements and grab samples collected during a storm event? Logistically it will be difficult and costly to require grab samples in addition to the flow weighted samples. Most stormwater data are categorized as event mean concentrations which is a flow weighted composite sample. Grab samples do not reflect EMC but rather just a point in time concentrations.
- e. The use of bacteria as a monitoring parameter to identify sources of sewage is questionable given bacteria is ubiquitous in our environment and difficult to track. Bacteria source tracking should be addressed in the TMDL on a case by case situation.
- f. Without receiving water data the MS4 is limited in its ability to determine whether non-stormwater discharges are causing or contributing to exceedances of water quality standards. However there is no receiving water monitoring coupled with the non-stormwater monitoring.
- g. The 1/23/12 presentation introduced some new as well as some not so new terms. Given the relatively early stage of development of the stormwater permitting program, it is important to clearly define these terms to avoid confusion and misunderstanding during the permit approval process. We realize that the adopted Permit will have a definition section but to assist in the permit development and adoption stage it would be useful to provide definitions upfront including the definition for outfalls, major or otherwise.

Recommendation: Conduct case studies for Torrance and the Los Angeles River watershed and others as appropriate to address a range of different conditions (e.g. size, receiving waters, TMDLs, etc.). These case studies will likely clarify the purpose and approach of the monitoring and lead to improvements in the monitoring program. Furthermore we believe it would be constructive to have PG Environmental participate in these discussions.

Closing

The LA Permit Group again appreciates the opportunity to provide these comments and look forward to working with the Regional Board especially in evaluating case studies to better craft a long term, constructive and cost effective monitoring program.

**LA Permit Group
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**LA Permit Group, proposal for
INTEGRATED WATERSHED MONITORING PLANS**

It is the MS4 Co-Permittees' intent to utilize Total Maximum Daily Load (TMDL) monitoring as the primary monitoring program requirement in the next MS4 Permit. The Co-Permittees support a TMDL-driven monitoring program that:

- evaluates the current conditions of recognized impaired water bodies (identified by the 303d List),
- facilitates the attainment of WLAs and assessment of effectiveness and improvement of BMPs to effectively address each impairment to the extent it is potentially contributed by the MS4, and
- identifies the extent to which the impairment may be caused by factors or sources other than discharges from the MS4

The Co-Permittees wish to work cooperatively with the assistance of outside experts, e.g., Council for Watershed Health³ or consulting firm, to prepare Integrated Watershed Monitoring Plans to meet TMDL monitoring requirements. Currently the adopted TMDLs require each agency or subwatershed group to submit separate TMDL Monitoring and Reporting Plans and to prepare individual annual monitoring reports for each TMDL. The end result will be numerous monitoring plans that are not coordinated, with redundancies between monitoring programs, without standard sampling or analysis methods to ensure data comparability, and with the potential for data gaps, which will create a multitude of annual reports which must be reviewed by Regional Board staff that do not provide a comprehensive picture of watershed health.

The goal of Integrated Watershed Monitoring Plans would be to provide:

- TMDL objective-driven monitoring plan designs,
- comprehensive data management and reporting,
- SWAMP-compatible QA/QC and data validation,
- data synthesis and interpretation on a watershed scale, and
- single, comprehensive annual monitoring reports for each watershed addressing all the adopted TMDLs in that watershed.

Integrated Watershed Monitoring Plans will be developed and implemented for each major watershed in the County. The Co-Permittees recognize the efficiencies that can be obtained by preparing Integrated Watershed Monitoring Plans that address all TMDLs for that watershed. During the process of developing the Integrated Watershed Monitoring Plans the Co-Permittees would bring together watershed stakeholders, compile an inventory of existing or pending monitoring efforts, develop a comprehensive list of monitoring questions to address the identified watershed impairments and design coordinated monitoring programs. The provisions of the 3rd term permit Monitoring and Reporting Program and the relevant TMDL monitoring requirements will be incorporated into each Integrated

³ The Council for Watershed Health (Council) has worked with the Wastewater Treatment Plants to prepare coordinated monitoring plans for the Los Angeles and San Gabriel River watersheds.

LA Permit Group
Comments on 1/23/12 LARWQCB Monitoring Program Presentation
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LA Permit Group, proposal for
INTEGRATED WATERSHED MONITORING PLANS, cont.

Watershed Monitoring Plan and the requirement for implementing individual TMDL monitoring plans would be eliminated once they have been incorporated into the approved Integrated Watershed Monitoring Plan. The Co-Permittees would need to develop a Memorandum of Understanding to contract for preparation of the Integrated Watershed Monitoring Plans and Annual Reports.

The Co-Permittees recognize the value of having Integrated Watershed Monitoring Plans to assess the extent of MS4 contribution to TMDL-listed impairments and to design and evaluate BMPs to reduce those contributions to attain WLAs, but also recognize that the same monitoring data can be used by the Regional Board to issue Notices of Violation and/or for Third Party lawsuits. Such regulatory and legal actions would be counterproductive and would obstruct the iterative adaptive process needed to efficiently and effectively improve water quality, thus the co-permittees request that the MS4 Permit language for Monitoring and TMDLs be written to require Integrated Watershed Monitoring Plans but to clearly state that so long as a Co-Permittee is carrying out its obligations in implementing measures in accordance with the provisions of an approved TMDL Implementation Plan and participating in a cooperative MOA to carry out the Integrated Watershed Monitoring Plans, that during this Permit term exceedances of Water Quality Standards, TMDL Waste Load Allocations, or Effluent Limits will not constitute a Permit violation. Integrated Watershed Monitoring Plans approved by the Executive Officer would supersede previously approved TMDL Monitoring and Reporting Plans.

Permittees that do not want to participate in the Integrated Watershed approach shall develop and/or utilize existing or future TMDL monitoring plans and schedules. Existing TMDLs should have the option to be included in the Integrated Watershed approach, and resulting timeframe adjustments, if they so chose.

**LA Permit Group
Draft Comments on TMDL Provisions Proposed at RWQCB Workshop on 1/23/12**

The Los Angeles Permit Group appreciates the opportunity to provide input to RWQCB staff on the elements of TMDL WLA incorporation into the MS4 permit as provided in the presentation and handouts during the workshop on 1/23/12.

The group supports many of the concepts outlined in the presentation, particularly the multiple methods of demonstrating compliance, which includes the implementation of rigorous implementation plans using an adaptive management strategy as a method of compliance. However, the group has a few key concerns with the proposal that we would like to share.

Reasonable Assurance Plan

We request that the Reasonable Assurance Plan (RAP) not be used as the mechanism for identifying the BMPs that will be used to comply with the TMDL WLAs. Rather, we request that the requirements to meet TMDL WLAs be incorporated into the Stormwater Quality Management Plan, as described below.

1. Stormwater Quality Management Plans, based on the TMDL implementation plans and other elements, can be developed with a watershed/sub watershed based or individual permittee approach rather than a "one size fits all" approach.
 - a. Permittees shall develop a process to evaluate BMPs that will fall under one or more of the following categories:
 - i. Operational source control BMPs that prevent contact of pollutants with rainwater or stormwater runoff;
 - ii. Runoff reduction BMPs;
 - iii. Treatment control BMPs where effectiveness information is available;
 - iv. True source control BMPs that eliminate or greatly reduce a potential pollutant at the original source pursuant to a legislative or regulatory time schedule; or
 - v. Research and development for pollutant types where effective BMPs have not been identified.
 - b. These categories will be incorporated as part of the Stormwater Quality Management Plans.
 - c. Stormwater Quality Management Plans will identify effective BMPs to be implemented in an iterative manner to attain the WLAs based on the design storm.
2. Stormwater Quality Management Plans designed to attain the TMDL WLAs will include:
 - a. specific, targeted steps scheduled to attain the WLAs through the use of BMPs;
 - b. specific procedures for evaluating BMP effectiveness; and
 - c. provisions for special studies if needed.

The Stormwater Quality Management Plans can incorporate BMPs identified in implementation plans to address the TMDL requirements.

**LA Permit Group
Comments on 1/23/12 LARWQCB TMDLs Program Presentation
Page 2 of 4**

TMDL Compliance

Our second, and primary concern, is the way in which compliance with TMDL permit provisions is being discussed. It is our understanding from the presentation, that at the end of a TMDL implementation schedule, if a permittee is not meeting the numeric values assigned as WLAs in the TMDL, the permittee will be considered out of compliance with the permit requirements. We have significant concerns with this approach to developing the permit for a number of reasons.

It is our understanding that this approach would result in the inclusion of numeric effluent limitations as the mechanism for incorporating the TMDL WLAs. For those TMDLs whose compliance dates have passed, permittees would be considered in violation of the permit if they are not meeting the numeric effluent limitations from the moment the permit is effective. If warranted, the Regional Board would use a Time Schedule Order (TSO) to provide some additional time for coming into compliance. If this is the proposed approach, in essence, the permittees would be going from complying with the current permit that includes only a few TMDL requirements to potentially being out of compliance for requirements that have never been in their permit.

Permittees are planning on taking actions as outlined in the Stormwater Quality Management Plan above to make significant progress towards improving water quality. However, we have concerns that requirements being proposed go beyond MEP given the economic and staff resources available to achieve the WLAs for an unprecedented number of TMDLs being incorporated into this permit. These concerns are based on a number of factors including but not limited to:

- TMDLs were developed using inadequate data with the intent that TMDL provisions would be revised through TMDL reconsiderations and special studies. Most of the TMDLs have not been reconsidered.
- Other sources may prevent attainment of standards in the receiving water no matter what actions are taken by the MS4 permittees.
- Many WLAs cannot be met within the permit term.
- Regulation of the sources of some pollutants are outside of MS4 permittees control.
- The design storm has not yet been defined and implementation of BMPs to ensure compliance under all conditions, including extreme storm events, could be extremely costly and technically infeasible.

Although we recognize that additional requirements and rigor need to be added to the permit to address TMDLs, we feel that there are straightforward ways to do this that do not represent such a significant shift in the regulation of stormwater discharges and place dischargers into an untenable situation of potentially being out of compliance with their permit from the effective date.

To address these concerns, the group would like to propose the following approach for compliance with TMDL WLAs.

1. Implement TMDL WLAs as BMP-based water quality based effluent limitations (WQBELs) in the permit. This is consistent with federal regulations (40 CFR 122.44(d)(1)(vii)(B) which require inclusion of effluent limits, defined at 40 CFR 122.2 as "any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from

LA Permit Group
 Comments on 1/23/12 LARWQCB TMDLs Program Presentation
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- “point sources”, which are “consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA.”
2. Define BMP-based WQBELs as “Implementation of BMPs included in a Regional Board Executive Officer approved Stormwater Quality Management Plan. The Stormwater Quality Management Plan (SQMP) shall describe the proposed BMPs and the documentation demonstrating that when implemented, the BMPs are expected to attain the WLAs, and a process for evaluating BMP effectiveness and implementing additional actions if necessary to meet the TMDL WLAs.” This is consistent with other recently adopted permits in California and with the requirements as described in the 1/23/12 RWQCB presentation.
 3. Consistent with the four methods for demonstrating compliance with TMDLs as presented in the 1/23/12 RWQCB presentation, a co-permittee which is achieving WLAs at the outfall (or equivalent point of compliance within the drainage system) or in receiving waters may cease implementing additional BMPs if appropriate.
 4. Violations of the BMP based WQBEL provisions would consist of the following provisions, in keeping with the 1/23/12 RWQCB presentation:
 - a. Not submitting the SQMP.
 - b. Not implementing all elements of the SQMP in accordance with the approved schedule.
 - c. Not implementing additional BMPs or revising the SQMP per the process outlined in the SQMP or on schedule.

We can provide example permit language to help expand upon the approach outlined above. We appreciate your consideration of this approach and would like to meet to discuss these important issues related to TMDLs.

Additional Comments on the Proposed Text

In addition to the general topics outlined above, we have some concerns about the draft language that was provided for the TMDLs. First, we request that a non-trash example be provided to allow a better understanding of how compliance will be determined for constituents that do not have a clear method of determining compliance outlined in the TMDL. Additionally, we feel that some of the language proposed is not consistent with the approach outlined in the presentation. We have highlighted the language of potential concern below.

Part 7. Total Maximum Daily Loads (TMDLs) Provisions

The second bullet states “The Permittees shall comply with the following effluent limitations and/or receiving water limitations...” This is followed by tables with the numeric WLAs.

We have three concerns with this language:

1. The language implies that the effluent limitations are strictly numeric.
2. The language does not include any reference to how compliance will be determined, with the exception of the trash TMDL.
3. The language refers to both effluent limitations and receiving water limitations for the Santa Clara River Bacteria TMDL. We feel this does not accurately reflect the language in the TMDL and creates confusion related to the receiving water limitations outlined in a separate portion of the document.

LA Permit Group
Comments on 1/23/12 LARWQCB TMDLs Program Presentation
Page 4 of 4

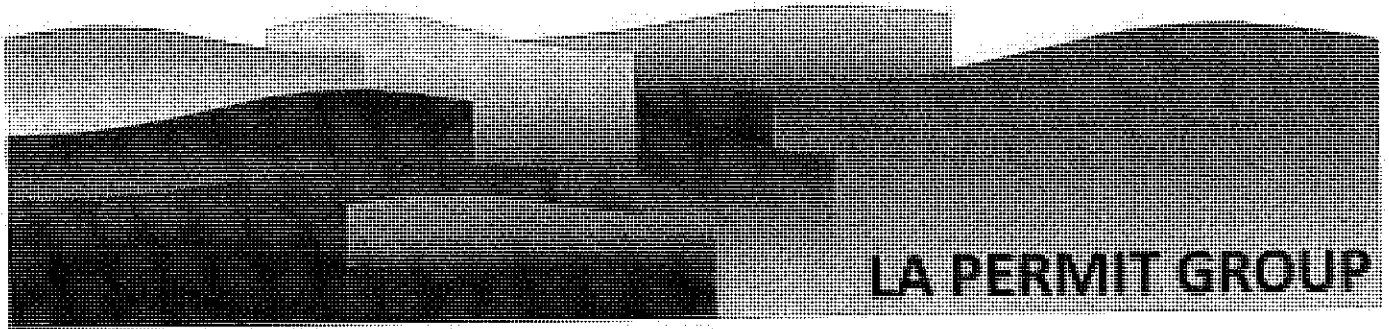
We feel that these concerns could be addressed through the approach outlined above for incorporation of TMDL WLAs.

MS4 Permit Provisions to Implement Trash TMDLs

We appreciate the incorporation of language to define alternative methods of compliance (i.e. full capture) and hope to see similar language for other constituents. However, we feel that some minor language modifications may be necessary to clearly show the linkage and ensure the permit is clear.

In B. (1)(d) Language regarding compliance through an MFAC program is not clearly defined. We feel that the language should clearly state that the permittee is deemed in compliance through implementing an approved MFAC program.

In B.(2), the language discussing violations of the permit should reference the previous section where compliance is defined.



May 14, 2012

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SUBJECT: Technical Comments on Los Angeles Regional Water Quality Control Board Staff Working Proposals for the Greater Los Angeles County MS4 Permit (Permit) – Watershed Management Programs, TMDLs and Receiving Water Limitations

Dear Ms. Purdy and Mr. Ridgeway:

The Los Angeles Permit Group would like to take this opportunity to provide comments on the working proposals for Watershed Management Programs, Total Maximum Daily Loads, and Receiving Water Limitations. These documents were posted on the Regional Board website on April 23, 2012. The LA Permit Group appreciates the Regional Board staff's effort to develop the next NPDES stormwater permit and their commitment to meet with various stakeholders including our group. We look forward to continuing the dialogue with the Board staff on this very important permit. Our highest priorities on the Watershed Management Program, TMDLs and Receiving Water Limitations are:

- Provide additional time to develop the Watershed Management Program to integrate the 32 TMDLs and prioritize efforts.
- Prior to adopting the Los Angeles MS4 NPDES Permit, reopen TMDLs for reconsideration where final compliance periods have passed and initiate the Basin Plan Amendment process to extend compliance deadlines to coordinate with the Watershed Management Program and consider substantial amounts of new information available. While the TMDL reopeners are pending, an affected Permittee would be in compliance through the implementation of core programs and implementation plans.
- Initiate TMDL reopeners/reconsideration where compliance with a waste load allocation (WLA) is exclusively set in the receiving water to also include compliance at the outfall, or other end-of-pipe; while the TMDL reopener is pending, an affected Permittee would be in compliance with the receiving water WLA through the implementation of core programs and implementation plans.
- Develop Receiving Water Limitation language that supports implementing the Watershed Management Programs without unnecessary vulnerability.

- All compliance points (interim WLA, milestones, and final WLA) for all TMDLs should allow for compliance timelines and actions consistent with the Watershed Management Programs that will be developed, rather than with strict numeric limits to determine compliance.

As noted in discussions with you, the LA Permit Group requested additional time to review the working proposals presented at the May 3, 2012 Regional Board Workshop. Given the brief comment deadline, there are significant, additional concerns that could not be fully explored or analyzed. Prior to issuing a tentative order, a complete administrative draft is needed to provide stakeholders (with a minimum 30 day review period) to allow the permittees to fully see how the various provisions of the permit will work together in order to gain a holistic view of the permit. This is essential in order to address the unprecedented policies and actions anticipated in the Los Angeles MS4 NPDES Permit.

These topics are further highlighted below. Detailed comments are attached for each Watershed Management Program, Receiving Water Limitations and TMDLs.

Watershed Management Programs

Overall, the LA Permit Group supports the Regional Board's proposed approach to address high priority water quality issues through the development and implementation of a watershed management program. We believe the working proposal provides sufficient detail to guide the development of the programs without being overly prescriptive and constraining. However, one of our biggest concerns with the working proposal is the proposed timeline for developing the watershed management programs. As noted in the working proposals and the workshop, municipalities would have only one year to develop a comprehensive watershed management program. This is insufficient time to organize the watershed cities and other agencies, develop cooperative agreements, initiate the studies, calibrate the data, draft the plans, and obtain necessary approvals from political bodies. As a comparison, the City of Torrance required two years to prepare a comprehensive water quality plan that addressed a suite of TMDLs, similar to what is being considered in the watershed management program. The permit should provide that the time schedule for submittal of the Draft Plan be 24 months after permit adoption.

We also offer the following comments regarding the watershed management program (our line item by line item review and comments are attached):

- The working proposal seems to be silent on the critical issue of sources of pollutants outside the authority of MS4 permittees (e. g. aerial deposition, upstream contributions, discharges allowed by another NPDES permit, etc.). We request that permittees be allowed to demonstrate that some sources are outside the permittee's control.
- Reasonable assurance necessitates closer integration with TMDL and storm water monitoring programs. Currently the working proposal does not provide a sufficient tie-in between the monitoring and the watershed program. This lack of tie-in was acknowledged in the workshop by Board staff. It is expected that this tie-in will be addressed once the monitoring provisions are drafted.
- The watershed plan is obviously tied closely with the TMDLs which is reasonable and constructive. But we would suggest that staff broaden the definition of water quality issues to consider protection of and impacts to existing ecosystems in the analysis.
- More careful consideration should be given to the frequency and extent of the reporting and adaptive management assessments. The current proposal results in a significant annual effort and the LA Permit Group members question the value of such an effort. Current reporting appears to overwhelm state staff resources without providing the state with usable feedback on the significant efforts about our programs. We believe that the reporting can be streamlined and that the jurisdictional and watershed reporting should be combined.

- It is unclear how program implementation and TMDL compliance will be handled during the interim period before development of the watershed management program. For those entities that choose to develop a watershed management program, the LA Permit Group requests that current, significant efforts in our existing programs and implementation plans be allowed to continue while we evaluate new MCMs as part of the watershed management program.
- Consideration of the technical and financial feasibility of complying with water quality standards should be included in the watershed management program.

Total Maximum Daily Loads

Of critical importance to this permit and to water quality is the incorporation of TMDLs into the NPDES permit. This NPDES permit proposes to incorporate more TMDLs than any other permit in California issued to date. As a result, the manner in which the TMDLs are incorporated into the permit is a critical issue for the LA Permit Group and will likely set a significant precedent for all future MS4 permits.

The rate of development of TMDLs in the Los Angeles Region was unparalleled in California, and likely the nation. A settlement agreement necessitated the much accelerated time schedule for these TMDLs. The TMDLs were developed based on the information available at the time, not the best information to identify or solve the problem. As a result, the sophistication of the TMDLs vary widely, meaning that not all TMDLs are created equal regarding knowledge of the pollutant sources, confidence in the technical analysis, availability of control measures sufficient to address the pollutant targets, etc. Additionally, the majority of the TMDLs were developed with the understanding that monitoring, special studies, and other information would be gathered during the early years of the TMDL implementation to refine the TMDLs. As such, many MS4 dischargers were told during TMDL adoption that any concerns they may have over inaccuracies in the TMDL analysis would be addressed through a TMDL reopener. The proposed method of incorporating TMDL WLAs, as outlined in the working proposal, does not effectively allow for addressing this phased method of implementing TMDLs, nor does it recognize the time, effort and complexities involved in addressing MS4 discharges, and it places municipalities into immediate compliance risk for permit requirements that have never been incorporated into the MS4 permit previously.

We recognize and appreciate that TMDLs must be incorporated in such a way as to require action to improve water quality. However, the permit should recognize the articulated goal of many of the TMDLs to be adaptive management documents and consider the challenges of trying to address the non-point nature of stormwater. As such, it is imperative to have flexibility in selecting an approach to address the TMDLs and the time frame by which to implement the approach.

Regional Board staff is making three significant policy decisions with regards to incorporating TMDLs into this permit that the LA Permit Group would like staff to reconsider:

1. The inclusion of numeric effluent limitations for final TMDL WLAs.
2. The use of time schedule orders to address Regional Board adopted TMDLs for which the compliance points have passed.
3. The use of time schedule orders for EPA adopted TMDLs with no implementation plans.

The first policy decision of concern is the incorporation of final WLAs solely as numeric effluent limitations in the proposed permit language. Although staff has discretion to include numeric limits, it is not required and the use of numeric limits results in contradictions and compliance inconsistencies with the rest of the permit requirements. Court decisions (See *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-1167 (9th Cir. 1999)¹), State Board orders (Order

¹ See also California Regional Water Quality Control Board San Diego Region - Fact Sheet / Technical Report For Order No. R9-2010-0016 / NPDES NO. CAS0108766.

WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District, at p. 10)² have affirmed that WLAs can be incorporated as non-numeric effluent limitations. Under 40 CFR Section 122.44 (k), the Regional Board may impose BMPs for control of storm water discharges in lieu of numeric effluent limitations when numeric limits are infeasible. It states that best management practices may be used to control or abate the discharge of pollutants when numeric effluent limitations are infeasible. In 2006, the Blue Ribbon Panel made recommendations to the State Water Resources Control Board concluding that it was not feasible to incorporate numeric limits into permits to regulate storm water, and at best there could be some action level, but not numeric waste load allocations. Very little has changed in the technology and the feasibility of controlling storm water pollutants since 2006. What has changed is that a legally compelled, long list of TMDLs has been adopted in the LA Region in a very short time period.

Additionally, during the May 3, 2012 MS4 Permit workshop, Regional Board staff seemed to indicate that the basis for incorporating the final WLAs as numeric effluent limitations is EPA's 2010 memorandum pertaining to the incorporation of TMDL WLAs in NPDES permits³. This memorandum (which is currently being reconsidered by U.S. EPA) states that "EPA recommends that, *where feasible*, the NPDES permitting authority *exercise its discretion* to include numeric effluent limitations as necessary to meet water quality standards" (emphasis added). This statement highlights the basic principle that the Regional Board has **discretion** in how the WLAs are incorporated into the MS4 Permit. Regional Board staff commented during the workshop that staff have evaluated data and have determined numeric effluent limitations are now feasible. However, no information refuting the Blue Ribbon Panel report recommendations has been provided that demonstrates how the appropriateness of using strict numeric limits was determined and why these limits are considered feasible now even though historically both EPA and the State have made findings that developing numeric limits was likely to be infeasible⁴.

Given the discretion available to Regional Board staff and the variability among the TMDLs with respect to understanding of the pollutant sources, confidence in the technical analysis, and availability of control measures sufficient to address the pollutant targets, **it is critical to use non-numeric water quality based effluent limitations for both interim and final WLAs in this permit.** The proposed Watershed Management Program will require quantitative analysis to select actions that will be taken to achieve TMDL WLAs. For the entire length of the TMDL compliance schedule, permittees will be required to demonstrate compliance with interim WLAs by implementing actions that they have estimated to the best of their knowledge will result in achieving the WLAs and water quality standards. Additionally, permittees will be held responsible for compliance with actions to meet the core program requirements of the permit. However, unless final WLAs are also expressed in this permit as action-based water quality based effluent limitations, and if instead strict numeric limits are required for final WLAs, then, at the specified final compliance date, no matter how much the permittee has done, no matter how much money has been spent, no matter how close to complying with the numeric values, and no matter what other information has been developed and submitted to the Regional Board, the permittee will be considered out of compliance with the permit requirements. And because of the structure established in this permit, the Regional Board staff will have to consider all permittees in this situation as being out of compliance with the permit provisions if the strict numeric limits have not been met, regardless of the actions

² "[i]t is our intent that federally mandated TMDLs be given substantive effect. Doing so can improve the efficacy of California's NPDES storm water permits. This is not to say that a wasteload allocation will result in numeric effluent limitations for municipal storm water dischargers. Whether future municipal storm water permit requirement appropriately implements a storm water wasteload allocation will need to be decided on the regional water quality control board's findings *supporting either the numeric or non-numeric* effluent limitations contained in the permit." (Order WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District, at p. 10 (emphasis added).)

³U.S. EPA, *Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*, Memorandum from U.S. EPA Director, Office of Wastewater Management James A. Hanlon and U.S. EPA Director, Office of Wetlands, Oceans, and Watershed Denise Keehner (Nov. 10, 2010).

⁴ Storm Water Panel Recommendations to the California State Water Resources Control Board "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities. June 19, 2006.

taken previously. This approach is inconsistent with the goals of good public policy, fair enforcement and fiscal responsibility.

To address this issue, the LA Permit Group recommends that:

- WLAs be translated into WQBELs, expressed as BMPs and that implementation of the BMPs will place the permittee into compliance with the MS4 Permit
- The WLAs be included as specific actions (BMPs) that will be designed to achieve the WLAs
- Include language that states that compliance with the TMDLs can be achieved through implementing BMPs defined in the watershed management plan

The second major policy decision of concern is the use of Time Schedule Orders for Regional Board adopted TMDLs for which the compliance date has already occurred prior to the approval of the NPDES permit. The ideal phased TMDL implementation process whereby dischargers can collect information, submit it to the Regional Board, and obtain revisions to the TMDL requirements to address data gaps and uncertainties has not occurred. As evidenced by the number of overdue permits, the workload commitments of Regional Board staff are significant and TMDL reopeners seldom occur. Because the majority of the TMDLs have not been incorporated into permit requirements until now, MS4 permittees have been put in the position of trying to comply with TMDL requirements without knowing how compliance with those TMDLs would be determined and without knowing when or if promised considerations of modifications to the TMDL would occur. And now, they are expected to be in immediate compliance with new permit provisions which differ from most precedent and guidance regarding incorporation of TMDLs into MS4 permits, regardless of what actions they have taken to try and meet the TMDL requirements. This is neither fair nor consistent.

The LA Permit Group strongly believes that the adaptive management approach envisioned during TMDL development, whereby TMDL reopeners are used to consider new monitoring data and other technical information to modify the TMDLs, including TMDL schedules as appropriate, is the most straightforward way to address past due TMDLs. Some of the past due TMDLs are currently being considered for modifications and Regional Board staff should use this opportunity to adjust the implementation timelines to reflect the practical and financial reality faced by municipalities. There is no reason why the reopeners cannot reflect information gathered during the implementation period, including information that may be considered in developing the Time Schedule Orders in the future, to selectively modify time schedules in the TMDLs. Additionally, the permit should reflect any modifications to the TMDL schedules made through the reopener process, either through a delay in the issuance of the permit until the modified TMDLs become effective, or by using your discretion to establish a specific compliance process for these TMDLs in the permit. Providing for compliance with these TMDLs through implementation of BMPs defined in the watershed management plans as we have requested for all other TMDLs is a feasible, fair and consistent way to achieve this goal.

The third policy decision of concern is the manner in which EPA adopted TMDLs are being incorporated into the permit. The draft proposal requires immediate compliance with EPA TMDL targets. The effect of this approach is to put MS4 dischargers immediately out of compliance for TMDLs that may have only been adopted in March 2012. However, the Regional Board has the discretion to include a compliance schedule in the permit for EPA adopted TMDLs should they so choose. Federal law does not prohibit the use of an implementation schedule when incorporating EPA adopted TMDLs into MS4 permits. Additionally, State law may be interpreted to require the development of an implementation plan prior to incorporation of EPA adopted TMDLs into permits. Accordingly, the LA Permit Group recommends that the working proposal be modified to include compliance schedules for EPA adopted TMDLs in the permit.

Receiving Water Limitations

The proposed Receiving Water Limitations (RWL) language creates a liability to the municipalities that we believe is unnecessary and counterproductive. The proposed language for the receiving water limitations provision is almost identical to the language that was litigated in the 2001 permit. On July 13, 2011, the United States Court of Appeals for the Ninth Circuit issued an opinion in *Natural Resources Defense Council, Inc., et al., v. County of Los Angeles, Los Angeles County Flood Control District, et al.*⁵ (*NRDC v. County of LA*) that determined that a municipality is liable for permit violations if its discharges cause or contribute to an exceedance of a water quality standard.

In light of the 9th Circuit's decision and based on the significant monitoring efforts being conducted by other municipal stormwater entities, municipal stormwater permittees will now be considered to be in non-compliance with their NPDES permits. Accordingly, municipal stormwater permittees will be exposed to considerable vulnerability, even though municipalities have little control over the sources of pollutants that create the vulnerability. Fundamentally, the proposed language again exposes the municipalities to enforcement action (and third party law suits) even when the municipality is engaged in an adaptive management approach to address the exceedance.

The LA Permit Group would like to more fully address Board Member Glickfeld's question raised at the May 3rd workshop about how RWL language as currently written puts cities in immediate non compliance, either individually or collectively. As written, TMDLs as well as water quality standards in the basin plan would have to be specifically met as soon as this permit is adopted. Many of the adopted TMDLs include language that cities are jointly and severably liable for compliance.

While the Regional Board staff has noted that enforcement action is unlikely if the permittees are implementing the iterative process, the reality is that municipalities are immediately vulnerable to third party lawsuits as well as enforcement action by Regional Board staff. In the Santa Monica Bay, cities were sent Notices of Violation that, in essence, stated that all cities in the watershed were guilty until they proved their innocence when receiving water violations were found, in some cases miles away. The "cause and contribute" language was quoted prominently in those NOV's as justification for why the Regional Board could take such action. As another case in point the City of Stockton was sued by a third party for violations of the cause/contribute prohibition even though the City was implementing a comprehensive iterative process with specific pollutant load reduction plans. Cities will have no warning or time to react to any water quality exceedances, but still be vulnerable to third party lawsuits even when cities are diligently working to address the pollutants of concern. This will be disastrous public policy, creating a chilling affect on productive storm water programs.

It is not fair and consistent enforcement to put cities in a vulnerable situation to be determined out of compliance with water quality standards in the basin plan without time to develop a plan of action, develop source identification, and implement a plan to address the concern. With the very recent legal interpretation that fundamentally changes how these permits have been traditionally implemented, please understand that adjusting the Receiving Water Limitations language is a critical issue. Again, the receiving water limitation language must be modified to allow for the integrated approach to address numerous TMDLs within the watershed based program to solve prioritized water quality problems in a systematic way. This is a fair and focused method to enforce water quality standards.

The receiving water limitation provision as crafted in the contested 2001 Los Angeles permit is unique to California. Recent USEPA developed permits (e.g. Washington D.C.) do not contain similar limitations. Thus, we would submit that the decision to include such a provision and the structure of the provision is a State defined requirement and therefore an opportunity exists for the Regional and State Boards to reaffirm the iterative process as the preferred approach for long term water quality improvement.

⁵ No. 10-56017, 2011 U.S. App. LEXIS 14443, at *1 (9th Cir., July 13, 2011).

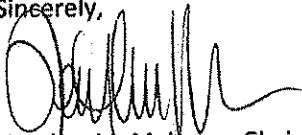
Beyond the legal/liability aspect of the receiving water limitations we would submit that in a practical sense the RWL works against the Watershed Management Program proposal. On the one hand the municipalities will develop watershed management programs that are based on the high priority water quality issues within the watershed. Consistent with the working proposal for the watershed management programs we would expect the focus to be on TMDLs and the pollutants associated with those TMDLs. However, under the current RWL working proposal the municipality will need to direct their resources to any and all pollutants that may cause or contribute to exceedances of water quality standards. Based on a review of other municipal outfall monitoring results in the State there may be occasional exceedances of other non-TMDL pollutants (e.g. aluminum, iron, etc.). These exceedances may only occur once every 10 storms but according to the current RWL proposal, the municipalities must also address these exceedances with the same priority as the TMDL pollutants. The LA Permit Group views this as unreasonable and ineffective use of limited municipal resources.

The RWL language is a critical issue for municipalities statewide and has been highlighted to the State Water Resources Control Board for consideration. Currently the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. It is imperative that the Regional Board works with the State Board on this very important issue.

As previously discussed at the May 3rd workshop, and requested by many Board Members, the economic implications of the many proposed permit requirements are of critical importance. The LA Permit Group will be providing the requested information in a subsequent submittal shortly. However, the short timeframe for commenting on these working proposals has precluded us from assembling the information before the comment deadline on May 14, 2012.

In closing, we thank you for the opportunity to comment on the working proposals and we look forward to meeting with you to discuss our comments and to explore alternative approaches. Furthermore we respectfully request that that the Board provide a complete administrative draft of the Permit to stakeholders prior to the public issuance of the Tentative Order. Overall, the comment deadline was too short to address all the potential issues and concerns with the Watershed Management Program, TMDLs, and Receiving Water Limitation sections and that there are significant, additional concerns that could not be fully explored or analyzed given the comment deadline. Thus it important to review the entire draft permit to better understand the relationship among the various provisions; this is especially true for the monitoring provision and its relationship to the watershed management program. We strongly encourage you to use your discretion on these matters to make the adjustments requested. Please feel free to contact me at (626) 932-5577 if you have any questions regarding our comments.

Sincerely,



Heather M. Maloney, Chair
LA Permit Group

Attachment A: Detailed Comments on the Regional Board Staff Working Proposal for the Greater Los Angeles County MS4 Permit RWL, Watershed Management Program and TMDLs

cc: Sam Unger, LARWQCB
Deb Smith, LARWQCB
Board Member Maria Mehranian (Chair), LARWQCB

Board Member Charles Stringer (Vice Chair) LARWQCB
Board Member Francine Diamond LARWQCB
Board Member Mary Ann Lutz LARWQCB
Board Member Madelyn Glickfeld LARWQCB
Board Member Maria Camacho LARWQCB
Board Member Irma Munoz LARWQCB
Board Member Lawrence Yee LARWQCB
Senator Hernandez
Senator Huff

Document Name: TMDL Working Proposal - April 23 2012

Agency/Reviewer: LA Stormwater Permit Group

Comment No.	Doc. Reference Page	Section	Comments	Rvwir (optional)	Author Response
1	5	B.1.c.(2)	<p>Santa Monica Bay Beaches Bacteria TMDL (SMBBB TMDL) is currently being reconsidered. As part of that reconsideration the summer dry weather targets must be revised to be consistent with the reference beach/anti-degradation approach established for the SMBBB TMDL and with the extensive data collected over that past seven years since original adoption of the SMBBB TMDL. This data clearly shows that natural and non-point sources result in 10% exceedances during dry weather. Data collected at the reference beach since adoption of the TMDL, as tabulated in Table 3 of the staff report of the proposed revisions to the Basin Plan Amendment, demonstrate that natural conditions associated with freshwater outlets from undeveloped watersheds result in exceedances of the single sample bacteria objectives during both summer and winter dry weather on approximately 10% of the days sampled.</p>		
1	5	B.1.c.(2)	<p>Thus the previous Source Analysis in the Basin Plan Amendment adopted by Resolution No. 02-004 which stated that "historical monitoring data from the reference beach indicate no exceedances of the single sample targets during summer dry weather and on average only three percent exceedance during winter dry weather" was incorrect and based on a data set not located at the point zero compliance location. Continued allocation of zero summer dry weather exceedances in the proposed Basin Plan Amendment is in direct conflict with the stated intent to utilize the reference beach/anti-degradation approach and ignores the scientifically demonstrated reality of natural causes and non-point sources of indicator bacteria exceedances.</p> <p>Continued use of the zero summer dry weather exceedance level will make compliance the SMBBB TMDL impossible for the Jurisdictional agencies. This is also in conflict with the intent of the Regional board as expressed in finding 21 of Resolution 2002-022 "that it is not the intent of the Regional Board to require treatment or diversion of bacteria from undeveloped areas".</p>		
1	5	B.1.c.(2)			

		<p>The SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) was approved by the Regional Board staff and that CSMP should be incorporated into the TMDL monitoring requirements of the next MS4 Permit. The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week, thus it is highly confusing and misleading to refer to "daily monitoring". The CSMP established that compliance monitoring would be conducted on a weekly basis, and although some monitoring sites are being monitored on additional days of the week, none of the sites are monitored seven days per week.</p>		
2	B.1.	<p>The SMBBB TMDL is currently being reconsidered at a hearing scheduled for June 7, 2012. The 4th term MS4 Permit should incorporate the revised waste load allocations which are to be adopted at that hearing, rather than the previous basin plan amendments.</p>		
3	B.1.	<p>Description of SMB 5-5 under Beach Monitoring Location is incorrect (and seems to have been switched with the description of SMB 5-3). SMB 5-5 is a historic monitoring location "50 yards south of the Hermosa Pier" as described in the adopted basin plan amendment and in the Regional Board approved Coordinated Shoreline Monitoring Plan. Whereas SMB 5-3 has been relocated from the historic location 50 yards south of the Manhattan Beach Pier to the zero point of the southern storm drain outfall against the strand wall under the Pier, thus an apt description of that location would be: "Manhattan Beach Pier, southern drain".</p>		
4	B.1.c.(3)	<p>This discussion in this section devoted to the SMBBB TMDL seems to create confusion regarding the meaning of the terms "water quality objectives or standards, and "receiving water limitations" and "water quality-based effluent limitations". Water quality objectives or water quality standards are those that apply in the receiving water. Water Quality Effluent Based Limits apply to the MS4. So the "allowable exceedance days" for the various conditions of summer dry weather, winter dry weather and wet weather should be referred to as "water quality-based effluent limitations" since those are the number of days of allowable exceedances of the water quality objectives that are being allowed for the MS4 discharge under this permit. While the first table that appears under this section at B.1 (b) should have the heading "water quality standards" or "water quality objectives" rather than the term "effluent limitations".</p>		
5	B.1		throughout	1-6

		<p>While it makes sense for the Jurisdictional Groups previously identified in the TMDLs to work jointly to carry out implementation plans to meet the interim reductions, only the responsible agencies with land use or MS4 tributary to a specific shoreline monitoring location can be held responsible for the final implementation targets to be achieved at each individual compliance location. An additional table is needed showing the responsible agencies for each individual shoreline monitoring location.</p>		
6	5	B.1.c(3)	<p>Santa Monica Bay Nearshore and Offshore Debris TMDL: An alternate compliance schedule is needed for responsible agencies that adopt local ordinances banning plastic bags, smoking in public places, and single-use expanded polystyrene by three years from the adoption date, or by November 4, 2013. Those agencies are to have a three year extension of the final compliance date, until March 20, 2023 to meet the final waste load allocations.</p>	
7	6-7	B.2.	<p>The Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4 based on estimates from limited data on existing stormwater discharges which resulted in a waste load allocation for stormwater that is lower than necessary. EPA stated that "if additional data case of DDT far lower than necessary. EPA stated that "if additional data indicates that existing stormwater loadings differ from the stormwater waste load allocations defined in the TMDL, the Los Angeles Regional Water Quality Control Board should consider reopening the TMDL to better reflect actual loadings." [USEPA Region IX, SMB TMDL for DDTs and PCBs, 3/26/2012]</p>	
8	7	B.3.	<p>In order to avoid a situation where the MS4 permittees would be out of compliance with the MS4 Permit if monitoring data indicate that the actual loading is higher than estimated and to allow time to re-open the TMDL if necessary, recommend as an interim compliance objective WQBELs based on the TMDL numeric targets for the sediment fraction in stormwater of 2.3 ug DDT/g of sediment on an organic carbon basis, and 0.7 ug PCB/g sediment on an organic carbon basis.</p>	
8	7	B.3.		

			<p>Although the Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4, they should be translated as WQBELs in a manner such that watershed management areas, subwatersheds and individual permittees have a means to demonstrate attainment of the WQBEL. Recommend that the final WLAs be expressed as an annual mass loading per unit area, e.g., per square mile. This in combination with the preceding recommendation for an interim WQBEL will still serve to protect the Santa Monica Bay beneficial uses for fishing while giving the MS4 Permittees time to collect robust monitoring data and utilize it to evaluate and identify controllable sources of DDT and PCBs.</p>			
9	7	B.3	<p>The Machado Lake Trash WQBELs listed in the table at C.2.c) in the staff working proposal appear to have been calculated from preliminary baseline waste load allocations discussed in the July 11, 2007 staff report for the Machado Lake Trash TMDL, rather than from the basin plan amendment. In some cases the point source land area for responsible jurisdictions used in the calculation are incorrect because they were preliminary estimates and subsequent GIS work on the part of responsible agencies has corrected those tributary areas. In other cases some of the jurisdictions may have conducted studies to develop a jurisdiction-specific baseline generation rate. The WQBELs should be expressed as they were in the adopted TMDL WLAs, that is as a percent reduction from baseline and not assign individual baselines to each city but leave that to the individual city's trash reporting and monitoring plan to clarify.</p>	C.2.c)	3	10

11	3	C.2.c)	<p>The WLAs in the adopted Machado Lake Trash TMDL were expressed in terms of percent reduction of trash from Baseline WLA with the note that percent reductions from the Baseline WLA will be assumed whenever full capture systems are installed in corresponding percentages of the conveyance discharging to Machado Lake. As discussed in subsequent city-specific comments, there are errors in the tributary areas originally used in the staff report, but in general, tributary areas are available only to about three significant figures when expressed in square miles. Thus the working draft should not be carrying seven significant figures in expressing the WQBELs as annual discharge rates in uncompressed gallons per year. The convention when multiplying two measured values is that the number of significant figures expressed in the product can be no greater than the minimum number of significant figures in the two underlying values. Thus if the tributary area is known to only three or four significant figures, and the estimated trash generation rate is known to four significant figures, the product can only be expressed to three or four significant figures. Thus there should be no values to the right of the decimal place and the whole numbers should be rounded to the correct number of significant figures.</p>		
12	3	C.2.c)	<p>The Regional Board's preliminary baseline trash generation rate for the City of Rolling Hills Estates was based on an assumed area of 1.22 square miles multiplied by the estimated trash generation rate of 5334 gallons of uncompressed trash per square mile per year. However as explained in the City's Trash Monitoring and Reporting Plan, subsequent GIS work performed by City and County of Los Angeles and confirmed by the City of Rolling Hills Estates' consultant identified a 2.76 square mile drainage area tributary to Machado Lake from the City of Rolling Hills Estates. Using this corrected area and the default trash generation rate of 5334 gallons of uncompressed trash per square mile per year would result in a corrected baseline of 14,700 gallons per year.</p>		
13	3	C.2.c)	<p>The Regional Board's preliminary baseline trash generation rate for the City of Rolling Hills was based on an assumed area of 0.56 square miles multiplied by the estimated trash generation rate of 5334 gallons of uncompressed trash per square mile per year. However as explained in the City's Trash Monitoring and Reporting Plan, subsequent GIS work performed by City and County of Los Angeles and confirmed by the City of Rolling Hills' consultant identified a 1.313 square miles drainage area tributary to Machado Lake from the City of Rolling Hills. Using this corrected area and the default trash generation rate of 5334 gallons of uncompressed trash per square mile per year would result in a corrected baseline of 7004 gallons per year.</p>		

14	3	C.3	<p>The Machado Lake Nutrient TMDL provides for a reconsideration of the TMDL 7.5 years from the effective date prior to the final compliance deadline. Please include an additional statement as item: 3.c)(3)"By September 11, 2016 Regional Board will reconsider the TMDL to include results of optional special studies and water quality monitoring data completed by the responsible jurisdictions and revise numeric targets, WLAs, LAs and the implementation schedule as needed."</p> <p>Table C is not provided in the section on TMDLs for Dominguez Channel and Greater LA and Long Beach Harbors Toxic Pollutants. Please clarify and reference that Attachment D Responsible Parties Table RB4 Jan 27, 12 which was provided to the State Board and responsible agencies during the SWRCB review of this TMDL, and is posted on the Regional Board website in the technical documents for this TMDL, is the correct table describing which agencies are responsible for complying with which waste load allocations, load allocations and monitoring requirements in this VERY complex TMDL. Attachment D should be included as a table in this section of the MS4 Permit.</p>		
15	4	C.5.a)	<p>The Dominguez Channel and Greater LA and Long Beach Harbor Waters Toxic Pollutants TMDL provides for a reconsideration of the TMDL targets and WLAs. Please include an additional statement as item: 4.e) "By March 23, 2018 Regional Board will reconsider targets, WLAs and LAs based on new policies, data or special studies. Regional Board will consider requirements for additional implementation or TMDLs for Los Angeles and San Gabriel Rivers and interim targets and allocations for the end of Phase II."</p>		
16	4-8	C.5.	<p>City of Hermosa Beach is only within one watershed, the Santa Monica Bay Watershed, and so should not be shown in italics as a multi-watershed permittee</p>		
17	1, 3, 15	Attach I	<p>Recommend using the same language from E.2.d.i.3 to describe the demonstration. Therefore substitute this for the current language at E.2.b.v.1: "Demonstrate that there is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL."</p>		
18	2	E.2.b.v.1.			

19	3	E.2.d.i.1.	<p>Recommend clarifying this item by incorporating the footnote into the text and modifying this item to read as follows: "There are no violations of the interim water quality-based effluent limitation for the pollutant(s) associated with a specific TMDL at the Permittee's applicable MS4 outfall(s) which may include: a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary, a manhole or other point of access to the MS4 at a subwatershed boundary that collects runoff from more than one Permittee's jurisdiction, or may be an outfall at the point of discharge to the receiving water that collects runoff from one or more Permittee's jurisdictions."</p>		
20	4	E.2.d.i.4.b.	<p>Is this in effect setting a design storm for the design of structural BMPs to address attainment of TMDLs, or is it simply referring to SUSMP/LID type structural BMPs? If it is in effect setting a design storm, there needs to be some sort of exception for TMDLs in which a separate design storm is defined, e.g., for trash TMDLs where the 1-year, 1-hour storm is used.</p> <p>Recommend not listing specific water bodies in E.5.b.(c) because then it risks becoming obsolete if new TMDLs are established for trash, or if they are reconsidered. Furthermore, it is not clear why Santa Monica Bay was left out of this list since the Marine Debris TMDL allows for compliance via the installation of full capture devices.</p>		
21	8	E.5.b.(c)	<p>Recommend not listing specific waterbody/trash TMDLs here, but simply leave the reference to Attachments X through X to identify the Trash TMDLs. Otherwise this may have to be revised in the future. Again, Santa Monica Bay Marine Debris TMDL was not included in this list, not sure whether it was an oversight or intentional?</p>		
22	7	E.5.a.i-x	<p>Not clear on what "discharges from the MS4 for which they are owners and/or operators" means.</p>		
23	2	E.2.b.ii	<p>For the "group of Permittees" having compliance determined as a whole, this should only be the case if the group of Permittees have moved forward with shared responsibilities (MOAs, cost sharing, a Watershed Management Program). It would not be fair to have one entity not be a part of the "group" and be the main cause of exceedances/violations.</p>		
24	2	E.2.b.iii			

26	3	E.2.c.iii	<p>For time schedule orders, the Burbank Water Reclamation Plant required a TSO since its interim permit limits expired, with the TSO bridging the gap between the time when the interim limits expired and when the new BWRP NPDES permit became effective. It should be noted that the Water-Effects-Ratio study was submitted in 2008 and it took the Regional Board nearly 2 years to complete its review of the study, which as a result required Burbank to request 2 1-year TSOs. Our concern with TSOs in the MS4 permit is that various efforts will be made to comply with the permit provisions and permit limits, including special studies for reopening purposes, and yet the TSO requests can either be delayed, or be limited to 1-year TSOs, placing extra burden on MS4 permittees to apply each year for the TSO, which requires a Regional Board hearing for adoption/approval.</p>
28	5	E.4.a	<p>This provision states "A Permittee shall comply immediately ... for which final compliance deadlines have passed pursuant to the TMDL implementation schedule." This provision is unreasonable. First, various brownfields/abandoned toxic sites exists, some of which were permitted to operate by State/Federal agencies - nothing has or will likely be done with these sites that contribute various pollutants to surface and sub-surface areas. Additionally, this permit is going to require a regional monitoring program - this program will yield results on what areas are especially prone to particular pollutants. Until these results are made known, MS4 Permittees will have a hard time knowing where to focus its resources and particularly, the placement of BMPs to capture, treat, and remove pollutants. For these reasons, this provision should be revised to first assess pollutant sources and then focus on compliance with BMP implementation.</p>
29	12-13	E.5.c.i(1)	<p>For reporting compliance based on Full Capture Systems, what is the significance of needing to know "the drainage areas addressed by these installations?" Unfortunately, record keeping in Burbank is limited to the location and size of City-owned catch basins. A drainage study would need to be done to define these drainage areas. As such, we do not believe this requirement serves a purpose in regards to full capture system installations and their intended function.</p>
30	7	E.5	<p>Please clarify that cities are not responsible for retrofitting.</p>
31	4	E.2.e	<p>Please add the language from interim limits E.2.d.4 a - c to the Final Water Quality Based Effluent Limitations and/or Receiving Water Limitations to ensure sufficient coordination between all TMDLs and the timelines and milestones that will be implemented in the Watershed Management Program.</p>

32	4	E.3	<p>Instead of TSO, please include mechanisms that allow for time to complete Basin Plan Amendments for EPA Established TMDLs. This will protect cities from unnecessary vulnerability and allow for these TMDLs to be incorporated into the Watershed Management Programs. Incorporate permit language that will reopen the LA MS4 upon completion of the Basin Plan Amendments necessary for coordination with these programs.</p> <p>Please change the Receiving Water Limitations for interim and final limits to the TMDL approved table. There should be no interpretation of the number of exceedance days based on daily for weekly sampling with, especially with no explanation of the ratio or calculations, and no discussion of averaging. Please revert to the original TMDL document.</p> <p>Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions</p>
33	Santa Clara River	A. 4 c)	
34	1	E.2	
35			<p>Santa Ana River TMDLs should be removed; this TMDL is eliminated</p> <p>Define "partial capture devices", define "institutional controls". Permittees need to have clear direction of how to attain the "zero" discharges which will have varying degrees of calculations regardless of which compliance method is followed. Explain the Regional Board's approval process for determining how institutional controls will supplement full and partial capture to attain a determination of "zero" discharge.</p> <p>MFAC and TMRP should be an option available to the Los Angeles River.</p> <p>Substantial comments have been submitted for the Reopener of the SMBBB. Rather than restate these comments, please address these comments in the MS4.</p> <p>For the LA River metals. Some permittees have opted out of the grouped effort. This section needs to detail how these mass-based daily limitations will be reapportioned.</p> <p>Why are "receiving Water Limitations" being inserted here? None of the other TMDLs seem to follow that format.</p> <p>It is the permittees understanding that the lead impairment of Reach 2 of the San Gabriel River has been removed. It should be removed from the MS4 permit.</p> <p>Permittees under the new MS4 permit (those in LA County) need to be able to separate themselves from Orange County cities. Since the 0.941 kg/day is a total mass limit, it needs to be apportioned between the two counties. Also, The MS4 permit needs to contain language allowing permittees to convert grouped-base limitations to individual permittee based limitations.</p>
36	9	5.b.ii.2	
37	10	5.b.ii.(4)	
38	1 of 19	B	
39	3 of 24	3.a)1	
40	6 of 24	4.d	
41	1 of 9	1.b	
42	1 of 9	1.c	

43	1	G	<p>Please remove, in its entirety, the Santa Ana River TMDLs</p> <p>Any TMDL, for which compliance with a waste load allocation (WLA) is exclusively set in the receiving water, shall be amended by a re-opener to also include compliance at the outfall, or other end-of-pipe, that shall be determined by translating the WLA into non-numeric WQBELs, expressed as best management practices (BMPs). While the TMDL re-opener is pending, an affected Permittee shall be in compliance with the receiving water WLA through the implementation of core programs.</p>		
44	general	general	<p>For the Freshwater portion of the Dominguez Channel: There are no provisions for BMP implementation to comply with the interim goals. The wording appears to contradict Section E.2.d.i.4 which allows permittees submit a Watershed Management Plan or otherwise demonstrate that BMPs being implemented will have a reasonable expectation of achieving the interim goals.</p>		
45	4 of 8	C.5.b.1	<p>For Greater LA Harbor: Similar to the previous comment regarding this section. The Table establishing Interim Effluent Limitations, Daily Maximum (mg/kg sediment), does not provide for natural variations that will occur from time to time in samples collected from the field. Given the current wording for the proposed Receiving Waters Limitations, even one exceedance could potentially place permittees in violation regardless of the permittees level of effort. Reference should be made in this section to Section E.2.d.i.4 which will provide the opportunity for Permittee to develop BMP-based compliance efforts to meet interim goals.</p>		
46	4 of 8	C.5.b.2	<p>For the freshwater portion of the Dominguez Channel: the wording should be clarified. Section 5.a states that "Permittees subject to this TMDL are listed in Table C." Then the Table in Section C.5.b.2 Table "Interim Effluent Limitations -- Sediment", lists all permittees except the Fresh water portion of the Dominguez Channel. For clarification purposes, we request adding the phase to the first row: "Dominguez Channel Estuary (below Vermont)"</p>		
47	4 of 8	C.5.b.2			

Document Name: Watershed Management Program Working Proposal - April 23 2012

Agency/Reviewer: LA Stormwater Permit Group

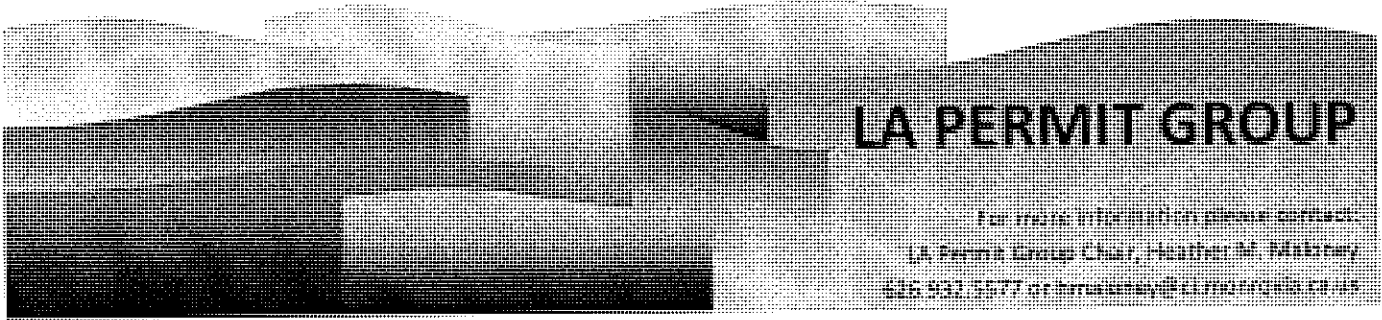
Comment No.	Doc. Reference		Comments	Rwwr (optional)	Author Response
	Page	Section			
1	4	(4)	<p>Pollutants in category 4 should not be included in this permit term, request elimination of any evaluation of category 4. Request elimination of category 3, as work should focus on the first two categories at this point.</p> <p>The Table (TBD) on page 2 states implementation of the Watershed Program will begin upon submittal of final plan. Page 11, section 4 Watershed Management Program Implementation states each Permittee shall implement the Watershed Management Program upon approval by the Executive Officer. Page 13 section iii says the Permittee shall implement modifications to the storm water management program upon acceptance by the Executive Officer. All three of these elements should be consistent and state upon approval by the Executive Officer. The item on page 13 should be changed to reflect the Watershed Management Program, or clarify that the Watershed Management Program is the storm water management program.</p>		
2	2, 11, 13	various	<p>Please allow 24 months for development of the Watershed Management Program to provide sufficient time for calibration and the political process to adopt these programs</p>		
3	2, 3	Table and C.2.a - d	<p>Please include a paragraph that Permittees are not responsible for pollutant sources outside the Permittees authority or control, such as aerial deposition, natural sources, sources permitted to discharge to the MS4, and upstream contributions</p>		
4	4	C.3.a.iii	<p>Reasonable assurance analysis and the prioritization elements should also include factors for technical and economic feasibility</p>		
5	9	(5)	<p>Please clarify that Permittees will only be responsible for continuing existing programs and TMDL implementation plans during the interim 18 month period while developing the Watershed Management Program and securing approval of those programs</p>		
6	2	C.2			

7	9	(4)(c)	<p>While it may be appropriate to have an overall design storm for the NPDES Permit and TMDL compliance, this element seems to address individual sites. Recommend developing more prominently in the areas of the Permit that deals with compliance that the overall Watershed Management Program should deal with the 85th percentile storm and that beyond that, Permittees are not held responsible for the water quality from the much larger storms. However, requiring individual projects to meet this standard is limiting as there may be smaller projects implemented that individually would not meet 85th percentile, but collectively would work together to meet that standard. Please clearly indicate cities are only responsible for the 85th percentile storm for compliance and that individual projects may treat more of less than than number.</p>		
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Document Name: RWL Working Proposal - April 23 2012

Agency/Reviewer: LA Stormwater Permit Group

Comment No.	Doc. Reference		Comments	Rwvr (optional)	Author Response
	Page	Section			
1	1 - 2	all	Currently the State Board is considering a range of alternatives to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but at the same time allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. It is imperative that the Regional Board works with the State Board on this very important issue		



April 13, 2012

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SUBJECT: Technical Comments on Los Angeles Regional Water Quality Control Board Staff Working Proposals for the Greater Los Angeles County MS4 Permit (Permit) – Minimum Control Measures and Non-Stormwater Discharges

Dear Ms. Purdy and Mr. Ridgeway:

The Los Angeles Permit Group would like to take this opportunity to provide comments on the working proposals for Minimum Control Measures (MCMs) and prohibitions for non-stormwater discharges. These documents were posted on the Regional Board website on March 21 and March 28, 2012 respectively. The LA Permit Group appreciates the Regional Board staff's effort to develop the next NPDES stormwater permit and their commitment to meet with various stakeholders including our group. We look forward to continuing the dialogue with the Board staff on this very important permit. Our overarching comments on the MCMs and non-stormwater discharges are highlighted in this letter. Detailed comments regarding the Staff Working Proposal for MCMs are attached. Detailed comments related to Non-stormwater Discharges will be submitted next week.

Watershed-Based Program and Maximum Extent Practical Standard

In order to achieve further water quality improvements, the Permit needs to set clear goals, while allowing flexibility with the programs and BMPs implemented. The way to accomplish this is through integrated watershed planning and monitoring. This strategy has been presented by the LA Permit Group as it will allow permittees to look at the larger picture and develop programs and BMPs based on addressing multiple pollutants. In doing so, limited local resources can be concentrated on the highest priorities. The LA Permit Group has on numerous occasions expressed our support of a watershed based approach to stormwater management. It would appear in Provision VI.C.1.a that the Board proposal also supports this approach.

The permit should allow permittees to tailor actions as part of a Watershed Plan.. The permit should clearly indicate that permittees have the option of either adopting the MCMs as they are laid out within the permit or pursue a Watershed Plan that provides permittees with the flexibility to customize the MCMs. The opportunity for a municipality to customize the MCMs to reflect the jurisdiction's water quality conditions is absolutely critical if municipalities are to

develop and implement stormwater programs that will result in achievement of water quality standards and environmental improvement. We, however, feel the MCMs are overly prescriptive and suggest that the permit ultimately establish a criterion that will be used to support any customization of MCMs. The criteria should be comprehensive but flexible. We suggest flexibility in the criteria because the management of pollutants in stormwater is a challenging task and the science and technology to help guide customizing MCMs are still developing. Furthermore, the municipal stormwater performance standard to reduce pollutants to the maximum extent practicable is not well defined and will depend on a number of factors¹. This constraint, as well as USEPA position² that the iterative/adaptive process is the basis for good stormwater management, supports the need to provide flexibility in defining the criteria for customizing actions.

We anticipate having further comments related to the MCMs once further information has been released regarding the permit structure and how the various aspects of the permit will work together. For example, it is difficult to fully comment on the MCMs until we are able to see them in the context of the compliance structure and the Watershed Plan section of the Permit.

Timeline and Fiscal Resources

The Staff Working Proposal does not provide timelines for the start-up and implementation of the MCM requirements. It is fair to say that there will be a transition period between the time the Permit becomes effective and the time that the municipalities will have to modify their current stormwater management programs to be in compliance with the new Permit provisions. At the same time, consideration should be given to the time required to develop watershed based "customized" programs. The LA Permit Group requests that the Regional Board provide a draft timeline for implementation and phasing-in of the MCM requirements.

Regarding fiscal resources, the LA Permit Group would like to recognize the parameters in which municipalities operate. The Staff Working Proposal requires municipalities to exercise its authority to secure fiscal resources necessary to meet all of the requirements of the Permit (page 5). However, we have a limited amount of funds that are under local control. Any additional funds needed for stormwater programs would need to come from increased/new stormwater fees and grants. New fees for stormwater are regulated under the State's Prop 218 regulations, and require a public vote so this is an item that is not under direct control of the municipalities – the Regional Board must take this into consideration and this provision should be removed from the permit. Furthermore in addition to clean water, local resources are also directed to a number of health, safety and quality of life factors. Thus, all these factors need to be developed in balance with each other. This requires a strategic process and that will take time to get right. We urge you to develop the permit conditions based on a reasonable timeframe in balance with the existing economy and other health, safety, regulatory and quality of life factors that local agencies are responsible for.

Shifting of State Responsibility to the MS4 Permittees

The Staff Working Proposal shifts much of the State responsibilities to the Municipalities regarding the State's General Permits for Construction Activities (CGP), Industrial Activities (IGP) and NPDES permits issued for non-stormwater discharges. Such examples are noted in our attached detailed comments.

In addition, there are requirements outlined in the Staff Working Proposal that exceed those required in the CGP and IGP. For example, the CGP compared to Provision 9.f which requires a ESCP for construction sites of all sizes. A few examples of where the Staff Working Proposal either shifts the responsibility or actually exceeds the requirements of the CGP are listed below:

¹ See E. Jennings 2/11/93 memorandum to Archie Mathews, State Water Resources Control Board.

² See Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 FR 43761 (Aug. 26, 1996).

- Maintaining a database that overlaps with the State's own SMARTS database. Asking Permittees to collect the same data adds unnecessary time and expense with no benefit to water quality.
- Maintaining a database for all types of permits is excessive and includes building permits that have little or no relevance to water quality protection.
- Requiring the development of a Rain Event Action Plan for small sites under 1 acre or for sites that would be categorized as Risk Level 1 under the CGP.

Those elements that shift State responsibility should be eliminated and the MCMs should be coordinated with other state and federal requirements, with particular attention to CGP and IGP requirements.

MCMs Should Reflect Effective Current Efforts

The LA Permit Group understands that the new Permit must reflect current efforts of stormwater management and water quality issues. Where the current stormwater management effort is assessed to be inadequate, then additional efforts are warranted. However, when permittees' current efforts are assessed to be adequate for protecting water quality, then the MCMs should reflect permittees' current efforts. One significant area where the LA Permit Group believes that the current effort is protective of water quality is in the new development program. Both the City and County of Los Angeles have developed and adopted Low Impact Development Ordinances and significant work, technical analysis, and public input have gone into the development of these ordinances. Rather than developing more stringent standards, the Permit should use these pre-established Ordinances as a reference for the type of program and flexibility needed to accommodate the unique and vastly varying characteristics throughout the County. Instead of providing detailed information in the text of the Permit, the LID provisions should outline general requirements of the program, and the details contained in a technical guidance manual. This point was reiterated by several speakers at the April 5, 2012 workshop, including BIA and supported by several Regional Board Members.

"MCMs for New Development"

Notwithstanding our comments above, the LA Permit Group has a number of concerns with the New Development provision of the MCMs. While the LA Permit Group has concerns and requests clarification with the other MCMs, we find the New Development MCMs the most challenging and unsupportable. These provisions are difficult to follow and the BMP selection hierarchy is confusing and at times in conflict. The LA Permit Group believes this provision should be redrafted. We have significant concerns with the following parts of the New Development MCMs:

- Selection hierarchy
- Infeasibility criteria
- Treatment Control Performance benchmarks (water quality based versus technology based)
- BMP tracking
- Inspection program
- BMP specificity

"MCMs for Public Agency Activities"

The Staff Working Proposal identifies, in a number of provisions, requirements to address trash regardless of whether the area is subject to a trash TMDL. We take exception to this approach, as on the one hand the MCMs requires prioritization, cleaning and inspection of catch basins as well as street sweeping and some other management control measures to address trash at public events. And then, even if the municipality is controlling trash through these control measures, the municipality must still install trash excluders (see page 63 regarding "additional trash management practices"). This makes little sense and the LA Permit Group would submit that if the initial control measures are successful, then the "additional trash management practices" are unnecessary (as evident by the lack of a TMDL).

“MCMs for ID/IC”

The Staff Working Proposal identifies a significant non-stormwater outfall based monitoring program. The LA Permit Group submits that TMDLs monitoring programs have already identified, to a large extent, a comprehensive non-stormwater monitoring program. As such we suggest that the TMDL monitoring program be the basis for the “non-stormwater outfall based monitoring program” and both should be identified in an Integrated Watershed Monitoring Program.

The other critical issue in the ID/IC program is clarifying the responsibilities of the municipalities and the Regional Board. This is particularly important when dealing with ongoing illicit discharges (see page 71). When this type of discharge occurs, the ultimate responsibility in correcting the illicit discharge lies with the discharger. The municipalities and the Regional Board may need to work in tandem to address a recalcitrant discharger, but the fiscal responsibility should lie with the discharger and not the municipality or Regional Board.

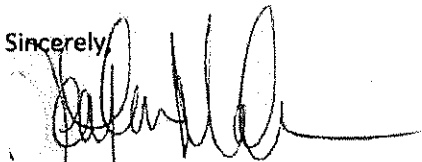
Non-Stormwater Prohibitions

The two overriding concerns associated with the proposed non-stormwater prohibition requirements is 1) the assumption that certain non-stormwater discharges should be conditioned to be allowed and 2) the need for further discussion and collaboration regarding potable water and fire operations and training activities discharges to MS4s. In the first case the LA Permit Group would submit that the monitoring data to support these conditions is lacking and should be the focus of the next Permit term. The LA Permit Group supports the need to place certain conditions on non-stormwater discharges when it has been shown that the discharge is an issue in the receiving water. Anything less than such a demonstration calls into question the water quality benefit for the additional cost to implement the conditions. Regarding our second observation, the LA Permit Group has worked closely with a group of community water systems and Fire Chiefs to discuss how potable water discharges should be addressed. While we have reached consensus on certain aspects, additional discussion and time is needed to work towards consensus.

In particular, the permit should differentiate between natural flows such as stream diversions, natural springs, uncontaminated groundwater and flows from riparian habitats and wetlands and urban discharges. Natural flows should not be held to a standard equal to urban discharges. The requirements to conduct appropriate monitoring and explore alternatives for the discharge are not commensurate with water quality concerns. Natural sources should not be conditioned in order to be allowed. The LA Permit Group recommends that the Regional Board continue the current permit format of categorizing natural sources separately from urban activity discharges.

Thank you for the opportunity to comment on the working proposals and we look forward to meeting with you to discuss our comments and to explore alternative approaches. Please feel free to contact me at (626) 932-5577 if you have any questions regarding our comments.

Sincerely,



Heather Maloney
Chair, LA Permit Group

Attachment A: Specific Comments on the Regional Board Staff Working Proposal for the Greater Los Angeles County MS4 Permit

cc: Sam Unger, LARWQCB
Deb Smith, LARWQCB

**LOS ANGELES PERMIT GROUP COMMENTS
 MINIMUM CONTROL MEASURES – 3/28/2012 STAFF WORKING PROPOSAL
 LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT**

No.	Page	Citation	Comment
General			
1	2	C.1.c	<p>The Definition of: "Development", "New Development" and "Re-development" should be added. The definitions in the existing permit should be used:</p> <p>"Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.</p> <p>"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.</p> <p>"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.</p> <p>The last of the three "routine maintenance" activities listed above should exclude projects related to existing streets since typically you are not changing the "purpose" of the street to carry vehicles and should not be altered.</p>
Legal Authority			
2	4	2.a.i	<p>Staff proposal states: "Control the contribution of pollutants to its MS4 from stormwater discharges associated with industrial and construction activity and control the quality of stormwater discharged from industrial and construction sites."</p> <p>It appears the intent of this language is to transfer the State's inspection and enforcement responsibilities to municipalities through the MS4 permit. When a separate general NPDES permit is issued by the Regional or State Board it should be the responsibility of that agency collecting such permit fees to control the contribution of pollutants, not MS4 permittees.</p>

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3	4	2.a.vii	<p>Staff proposal states: "Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees."</p> <p>The intention of this statement is unclear and should be explained, and a definition of "shared MS4" should be provided. How would an inter-agency agreement work with an upstream and downstream agency? This is not practical - this agreement should have been done before the interconnection of MS4 systems occurred. An example of this agreement should be provided within the Permit. The permittee will not agree to the responsibility of an exceedance without first having evidence of the source and its known origin (in other words, an IC/ID is a private "culprit" and not the cause of the City).</p>
4	4	2.a.xi	<p>Staff proposal states: "Require that structural BMPs are properly operated and maintained."</p> <p>MS4 agencies can control discharges through an illicit discharge program, and conditioning new/redevelopment to ensure mitigation of pollutants. Unless the existing development private property owners/tenants are willing or in the process of retrofitting its property, the installation and O&M of BMPs is not practical and cannot be legally enforceable against an entity that does not own or control the property, such as a municipal entity.</p>
5	5	2.a.xii	<p>Staff proposal states: "Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4."</p> <p>It is difficult, if not impossible, to accurately quantify the exact effectiveness of a particular set of BMP's in reducing the discharge of pollutants. Some discharges may be reduced over time given reductions in industrial activity, population in a particular portion of the community feeding into the MS4, or for other reasons not directly related to implementation of structural BMPs. Given that the County of LA is generally urbanized and thus impervious, a leathargic economic climate (meaning development and redevelopment is not occurring in an expeditious manner), and that several pollutants do not have known BMPs effective at removing/reducing the content (i.e., metals, toxics, pesticides), the effectiveness of BMPs should not be required and instead should only be used for research, development, and progress of BMP testing.</p>
Fiscal Resources			
6	5	3	<p>The staff proposal includes a section on Fiscal Resources. Most MS4's do not have a storm water quality funding source, and even those that do have a funding source are not structured to meet the requirements of the proposed MS4 requirements (for instance, development funds may be collected to construct an extended detention basin, but not for street sweeping, catch basin cleaning, public right-of-way structural BMPs, etc).</p>

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7	5	3.a	<p>Staff proposal states: "Each permittee shall exercise its full authority to secure fiscal resources necessary to meet all requirements of this Order"</p> <p>This sentence has no legally enforceable standard. What exactly does the exercise of "full authority" mean, when the exercise of a city's right to tax comes with consequences and no guarantee of success. Municipal entities must adjust for a variety of urgent needs, some federally mandated in a manner that cannot be ignored. So, if we seek the fiscal resources to fund the programs required in the permit and the citizens say "No", then a municipality will have a limited ability to comply with "all requirements of this Order". Can the language be changed to state: "Each permittee shall make its best efforts given existing financial and budget constraints to secure fiscal resources necessary to meet all requirements of this Order"?</p>
Public Information and Participation Program			
8	6	6.a.iii	<p>Staff proposal states: "To measurably change the waste disposal and stormwater pollution generation behavior of target audiences..."</p> <p>Define the method to be used to measure behavior change. As written, this requirement is vague and open to interpretation.</p>
9	7	6.d.i.2.b	<p>Staff proposal states: "... including personal care products and pharmaceuticals)"</p> <p>The stormwater permit should pertain only to stormwater issues. Pharmaceuticals getting into waters of the US are typically a result of waste treatment processes. All references to pharmaceuticals should be removed from this MS4 permit.</p>
10	8	6.d.i.3	<p>The Regional Board assumes that all of the listed businesses will willingly allow the City to install displays containing the various BMP educational materials in their businesses. If the businesses do allow the installations then the City must monitor the availability of the handouts because the business will not monitor or keep the display full or notify the City when the materials are running out. If the business will not allow the City to display the educational material must we document that denial? Will that denial indicate that the City is not in compliance?</p>
Industrial/Commercial Facilities Program			
11	10	7.b.i.4	<p>Staff proposal states: "All other facilities tributary to waterbody segment addressed by a TMDL..."</p> <p>As written, this category is so vague that it could mean every single industrial or commercial facility. Please clearly define or revise this requirement. In this context, "commercial" refers to a currently unspecified category of facilities beyond those listed in VI.C.7.b.i.1 (page 9). Provide a precise definition for a commercial facility, or specify the extended category (or NAICSS/SICs) of facilities to be considered. Also, clarify how the Permittees will initially determine the pollutants generated for these facilities. A method that will promote consistency among Permittees is preferred, such as a table of potential pollutants based on business type or activities.</p>

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12	10	7.b.ii.6	Staff proposal states: "A narrative description that describes the economic activities performed and principal products used at each facility"
13	11	7.d-f	Since "economic activities" is an invasive question to ask of a facility, we suggest the following: "A narrative description of activities performed and/or principal products of each facility." These sections pertain to inspecting critical source facilities where it appears the intent is to transfer the State's Industrial General Permit inspection and enforcement responsibilities to municipalities through the MS4 permit. We request eliminating these sections OR revise to exclude all MS4 permittee responsibility for NPDES permitted industrial facilities.
14	17	7.e.i	Staff proposal states: "...in the event a Permittee determines that a BMP is infeasible, Permittee shall require implementation of similar BMPs..." Judging a BMP to be "infeasible or ineffective" is subjective. Please delete this requirement.
15	17	7.e.i	Staff report states: "Facilities must implement the source control BMPs identified in the California Stormwater BMP Handbook, Industrial and Commercial, unless the pollutant generating activity does not occur. In the event that a Permittee determines that a BMP is infeasible at any site, the Permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the stormwater discharges. Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls." It is not clear when source control BMPs would need to be implemented. Further, if the City implements low-flow diversions and an enhanced street sweeping program, it would not make sense to still require BMP retrofits to those catchment areas.
Development Planning			
16	21	8.b.1	This permit update would be a good opportunity to examine the type of developments that are subject to the permit. There should be a link between the selected categories and the water quality objectives. Perhaps a reworking of this section could provide that clear nexus.
17	21	8.b.i.1.g	Roadway construction projects that are part of a large development (i.e. track-home development) can be subjected to the associated residential or commercial/industrial development, making this requirement difficult to implement.
18	21	8.b.i.1.g	The proposed limit is too low for street construction projects by using the typical 10,000 square foot number that is used in several development projects. A street project that proposes to build 10,000 sq. ft. is an extremely small street project, as the requirement calls out overall area. It might consist of a one block extension of a street 60 feet wide by 166 feet long. When cities propose street extensions it is usually in terms of half mile or mile-long segments which involve more than 150,000 square feet (sq. ft.). For public works projects, the area of 50,000 sq. ft. is a more correct and appropriate threshold. Please delete this requirement.
19	21	8.b.i.1.g	Public Works roadway maintenance projects including the ones that expand the roadway capacity should not be subject to these provisions because of the limited opportunities for BMP incorporation. Existing roads incorporate a large number of utilities within them that limits the opportunities for BMP incorporation.

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20	21	8.b.i.1.g	We support the use of opportunity-based BMP guidance for roadway projects such as the referenced USEPA's "Green Infrastructure: Green Streets", however calling for this implementation to the maximum control possible is contradictory.
21	24	8.c.i.1	It appears based on the language that the project performance criteria of c. is intended to apply to all categories of new development and redevelopment projects as listed in b.i and b.ii. Please clarify whether this is meant to apply to single family hillside homes with no size limit? A new definition of single family hillside home has not been provided in this working draft, so it is unclear whether this is the case. If the intention was to only require the narrative measures for single-family hillside homes as listed in 8.b.i.(1)(k)-v, and not require to retain the design volume onsite, then that should be clarified by excluding them from the 8.c.i(1) statement.
22	24	8.c.i.2	The SWQDv definition should be modified to better reflect the purpose of the regulation as stated in 8.a.i.(3) "... designing projects to minimize the impervious area footprint, and employing Low Impact Development (LID) design principles to mimic predevelopment water balance..." Modify as follows: "... the Stormwater Quality Design Volume (SWQDv) defined as the runoff from all impervious surfaces that are generated by a..."
23	24	8.c.i.2.c	The "whichever is greater" requirement is unnecessary since both criteria are deemed to be equivalent. This requirement will only increase design time by having engineering staff perform multiple analyses.
24	24	8.c.i.5	Please define the term "wet-weather season".
25	24	8.c.i.5	The only reasonable and still beneficial rainwater harvesting approach would require the storage of the seasonal (winter-time) runoff for use when needed (spring and summer). This would increase the size of the rainwater harvesting BMPs. RWQCB should acknowledge that rainwater harvesting is both economically and technically infeasible for the vast majority of development projects in arid Los Angeles region climates.
26	24	8.c.i.6	The 72 hour drawdown requirement is counterproductive. Most irrigation practices do not irrigate landscaping within 72 hours after heavy/medium rainfall events because the ground could be saturated and the plants do not require water. Irrigating saturated ground could result in increase dry weather runoff because the water will not percolate into the saturated soil quick enough.
27	25-26	Table	The table provided lacks clarity and the use of M _v parameter is not clear and is not defined. However it appears to require projects that cannot retain runoff on-site to seek alternative locations to retrofit. We anticipate that this requirement will be unfeasible for a number of legal, logistical and technical reasons and as a result the "Least Preferred Option" will be exercised in most cases. The "Least Preferred Option" requires the over-sizing of the biofiltration systems by a factor of 1.5. We recommend that any design be consistent with established design standards (i.e. California Stormwater Quality Association) for consistency and ease in its implementation.
28	25-26	Table	The requirements that are provided in this table seem to be overly prescriptive. The requirements are not water-quality driven but rather groundwater-recharge driven. A more balanced approach will allow the use of multiple BMP options and not excluding effective treatment technologies.
29	28	8.c.iii.3.b	The proposed language uses terms that may be understood by hydrologists, but most city engineers and development engineers would not know what a HUC-10 or an HUC-12 Hydrologic Area is. Please define these terms if they are going to be used in this regulatory permit.

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30	29	8.c.iii.3.c	The federal stormwater regulation place importance on water quality. Groundwater recharge is outside the purview of this permit. The requirement to prove equal benefit should be removed.
31	29	8.c.iii.3.g	This section introduces an arbitrary delay if a project opponent petitions the Executive Officer to review a projects off-site mitigation. The project proponent deserves to receive a response in a reasonable time when an appeal is filed with the Executive Officer. We respectfully request that lines of communications be opened between the Executive Officer and the project proponent within 15-days when a third party files an appeal of the local jurisdictions decision on a project.
32	30	8.c.iii.4	Requiring biofiltration systems to treat 1.5 times the SWQDv will not improve water quality during a 85th percentile storm event. The concentration leaving the system will not improve if the system is 50% larger. Biofilters are typically size by increasing the surface area as the flow increases. If the flow is lower than the design flow a small area of the system is utilized. The removal efficiency is the same for all flow rates below the design flow and therefore the concentration is the same for the design flow or below.
33	30	8.c.iii.5.b	Biofilters are not designed with detention volume. They are designed on a flow rate basis. The last portion of the paragraph regarding pore spaces and re-filter should be removed.
34	30	8.c.iv.1	New development/redevelopment project that are upstream of an offsite water quality mitigation project should be exempt from the requirements of this subsection. Requiring a project to mitigate their pollutant load twice is unnecessary. This subsection should only apply if the project would discharge to the receiving water without first draining to an offsite project.
35	31	8.c.iv - Table	The presence of benchmark tables, even for the projects that implement offsite mitigation is inappropriate. These standards for the great part are not attainable by existing technologies. Development projects instead should only be subject to design standards not performance standards. The idea of upgrading the treatment system to achieve compliance introduces unnecessary uncertainties to future development activities in our region.
36	33	8.c.v.1	Alternatives to the Ventura County Permit Hydromodification criteria should be considered such as those identified in the Los Angeles County Low Impact Development Standards Manual or maintain the "peak flow control" requirements as appear in the existing permit. Los Angeles County watersheds are significantly different than those of Ventura County. Los Angeles County has limited areas draining into natural drainage systems.
37	33	8.c.v.1.a	The use of Erosion Potential (E_p) as a sole method for determining hydromodification impacts is inappropriate because of its limited use and difficulty to use. The existing Los Angeles County requirement to conduct hydrology and hydraulic analysis for SUSMP, 2-, 5-, 10-, 25-, and 50-year storm events and fully mitigate drainage impacts from these flow regimes is better understood.
38	37	8.c.vi	The Regional Board proposes an Annual Report item for each project that is approved with off-site mitigation. The calculations for the off-site mitigation should be easy to document, but the project performance without alternative compliance is not so clear. Please provide the information necessary to complete the annual report.
39	38	8.d.i	The proposed language as written would not accept existing LID Ordinances to be compliant with the applicable provisions of this Order. Please provide language that allows flexibility for existing LID ordinances and also provide criteria determining equivalency.
40	39	8.d.iv	It should be clarified that previously approved projects will not be subject to these requirements.

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41	40	8.d.iv.b	This requirement should be limited to the sites already visited as part of the "critical sources" program. Allow a self-inspection program where the property owners will be required to maintain their BMPs based on their type and maintenance needs. These requirements can be incorporated in the Covenant and Agreement (C & A). Property owners will be required to keep records of maintenance performed on these BMPs. Municipalities lack the resources to conduct the inspection. Municipalities can perform instead a review of the inspection records on a random and as-needed limited basis.
Development Construction			
42	41	9.d	Requiring this on all projects regardless of size is excessive. Small project will have minimal if any impact on water quality. A lower limit needs to be set for applicability such as 100 cubic yards of disturbed soil. It may be appropriate for projects to install a minimum set of BMPs without the need for a plan.
43	41	9.e.1.i	Maintaining the required database for all types of permits issued by the municipalities is excessive since not all permits require this type of information. In the City of Los Angeles for example about 35,000 building permits are issued annually.
44	42-43	9.f.ii	The number of elements for the ESCP should not be the same as those of the State SWPPP as required by the General Construction Permit. Existing Erosion Control Plans require the identification and placement of the BMPs in the engineering drawings and this has been identified as adequate.
45	43	9.f.ii.3.i	An example of how excessive it is to require these elements for the smaller sites is the requirement to prepare a Rain Event Action Plan (REAP). Under the Construction General Permit, a REAP is not required until the project reaches a Risk Level 2 status. It is not justifiable to say that a grading project, that does not disturb more than an acre and is not subject to a CGP, should be required to prepare a REAP.
46	43	9.f.ii.4	The requirement to discuss the rationale for the selection and design of the proposed BMPs (including soil loss calculations for the non-selected BMPs) is excessive and it dramatically increases the engineering costs of small construction projects. Please delete this requirement.
47	43	9.f.ii.5	The proposed language shifts much of the State responsibilities for sites greater than one acre to the Municipal Permittees without shifting the corresponding funding. Please consider setting-up a mechanism for the municipalities to operate the registration, fee collection, and inspection for sites that are under GCP coverage or revise the language so that Municipal Permittees are not made responsible parties for this activity.
48	43	9.f.ii.8	The proposed language asks cities to verify the approvals of the Army Corps of Engineers, Department of Fish and Game and the Regional Water Boards prior to the issuance of a grading or building permit. This requirement should not be implemented unless the Regional Board can provide a simple, easy to use system to accomplish the check. Furthermore, many projects reviewed every day do not require a 401, 404 or a 1600 certification to be allowed to grade on their site. The few cases where these certifications are required, they are taken care of in the EIR process rather than the Building or Grading permit process. This restriction should cite the Planning process rather than the building or grading process.
49	43-44	9.g.i	The Regional Board should not write this MS4 permit to overlap the CGP. A project that is required to have coverage under the CGP will deal with the Risk levels and apply the appropriate provisions of the CGP. Smaller sites that do not require coverage under the CGP should have lesser requirements than Risk Level 1 provisions.

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50	44	9.g.iv	The Regional Board is referring to an outdated set of BMP tables by referring to the 2003 version of the CASQA Manuals. CASQA has updated the manuals in 2010 and these are the manuals that should be referenced.
51	44-47	Tables	It appears that the Regional Board is taking the BMP tables from the CGP, without the language contained in the CGP that states that to avoid duplication each subsequent table needs to include or be added to the BMPs shown in the earlier list. Please include this language so that unfamiliar engineering, plan-checking, or inspection staff does not overlook the intent of the CGP.
52	48	Table	The proposed language would require municipalities to inspect GCP sites at least monthly. This constitutes a large increase in the inspection responsibilities for the municipalities for State responsibilities. Please delete or revise this requirement.
53	48	9.h.ii.2	The requirement to perform five inspections during the construction phase of a project, no matter how small, is excessive and serves no benefit. The only reasonable inspection would be during the grading phase and upon project completion as part of existing inspections.
54	50	9.h.ii.5.b	The language is all inclusive for the inspection portion of the permit. By asking the field inspector to "determine whether all BMPs have been selected, installed, implemented and maintained according to the approved plans," the Board is placing responsibility on the inspector which rightly should be the responsibility of the plan reviewer. If an inspector is having a dispute with the Contractor or builder of a project, the inspector can improperly raise the issue of BMP selection and cause great expense to the project. The Plan Reviewer should determine what BMPs are appropriate for the site and verify that they are properly designed. The inspector should verify that BMPs are installed properly, and are being implemented and maintained as required by the field conditions; however, to allow the inspector to evaluate selection is overstepping his training and authority.
55	51	9.j	A more effective approach would be through a State mandate for a Statewide training program perhaps through the use of the contractor's license board. Because of their nomadic nature of construction activity, contractors move from City to City at will. For a City to be responsible for training the contractors that work within their city is not possible. This should either be a State responsibility, much like the QSD/QSP programs currently run by the State.
56	54	10.d	If there is a specific pollutant to address, retrofitting or any other BMP would best be accomplished through a TMDL, which is for the Permittees to determine rather than a prescribed blanket approach. As written, this is too broad of a requirement with unknown costs that is attempting to solve a problem before there is a problem. Please delete this VI.C.10.d.

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57	54	10.d	<p>Staff proposal states: "Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part. The goals of the existing development retrofitting inventory are to address the impacts of existing development through retrofit projects that reduce the discharges of stormwater pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards."</p> <p>This process would require land acquisition, a feasibility analysis, no impacts to existing infrastructure, proper soils, and support of various interested stakeholders. Additionally, if a property or area is being developed/redeveloped, retrofitting the site for water quality purposes makes sense, but not for an area where no development/redevelopment is planned. Finally, the LID provisions have already included provisions for off-site mitigation, in which we recommend that regional water quality projects be considered in lieu of local-scale water quality projects that will prove difficult to upkeep, maintain, and replace, let alone have existing sites evaluated as feasible. For these reasons, this requirement should be removed.</p> <p>Any retrofit activities should be the result of either an illicit discharge investigation or TMDL monitoring follow-up and will need to be addressed on a site-by-site basis. A blanket effort as proposed in a highly urbanized area is simply not feasible at this time.</p> <p>Staff proposal states: "Each Permittee shall implement the following measures for flood management projects"</p> <p>Flood management projects need to be clearly defined.</p> <p>Staff proposal states: "Policies, procedures, and ordinances shall include commitments and a schedule to reduce the use of pesticides that cause impairment of surface waters..."</p> <p>The method which a pesticide that causes "impairment" to waterbodies needs to be defined.</p> <p>Staff proposal states: "Provide clean out of catch basins... 24 hours after event"</p> <p>Many public events happen on the weekends (i.e. Saturday). To avoid excessive overtime costs, please change the requirement to "next business day after the event" or "next business day."</p> <p>This requirement appears to be an "end-run" around the lack of catch basin structural BMPs in areas not covered by Trash TMDLs. The requirement has the potential to be extraordinarily economically burdensome. If an area is NOT subjected to a Trash TMDL, then the need for any mitigation devices is baseless. The MS4 permit requirements should not circumvent nor minimize the CWA 303(d) process.</p> <p>Staff proposal requires: "Infiltration from Sanitary Sewer to MS4 / Preventive Maintenance...."</p> <p>The State Water Board has implemented a separate permit for sewer maintenance activities. Additional sewer maintenance requirements are redundant and unnecessary. Please delete this requirement.</p>
58	56	10.d.v	
59	56	10.e.ii	
60	60	10.g.ii.7	
61	62	10.h.iv.1.c	
62	63	10.h.vii.1	
63	64	10.h.ix	

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Illicit Connection and Illicit Discharge Elimination Program	
64	<p>11</p> <p>In general the LA Permit Group would like the flexibility to determine where (i.e. outfall vs. receiving water) monitoring is conducted and how the program is developed. This flexibility is necessary due to the variability in the physical makeup from one watershed to the next, and perspectives/philosophy of one permittee to the next. The Group proposes to do "non-stormwater outfall-based monitoring program" as part of an Integrated Watershed Monitoring Program. There is ample dry weather monitoring in the TMDLs to address a "non-stormwater outfall-based monitoring program". Please revise each mention of "Each Permittee" to "Permittee/Permittees" to allow the flexibility of doing a Watershed or by individual city program, and sufficient program flexibility for receiving waterbody monitoring in-lieu of outfall monitoring. A definition of "outfall" is required for clarity. An "outfall" for purposes of "non-stormwater outfall-based monitoring program" should be defined as "major outfall" pursuant to Clean Water Act 40CFR 122.26. Please revise each mention of "outfall" to read "major outfall" when discussing "non-stormwater outfall-based monitoring program".</p>
65	<p>11</p> <p>Some small cities do not have digital maps. In the "General" category of Section 11, please provide a 1 year time schedule for cities to create digital maps OR provide the municipality the ability to develop comprehensive maps of the storm sewer system in any format.</p>
66	<p>68</p> <p>11.a</p>
67	<p>68</p> <p>11.b.i.1</p> <p>Omit the comment, "Each mapped MS4 outfall shall be located using geographical positioning system (GPS) and photographs of the outfall shall be taken to provide baseline information to track operation and maintenance needs over time." This requirement is cost prohibitive and of little value because many City outfalls are underground and could not be accurately located or photographed. Photographs of outfalls in channels have little value since data required is already included on "As-Built" drawings. Geographic coordinates can easily be obtained using Google Earth or existing GIS coordinate systems.</p>
68	<p>69</p> <p>11.b.i.3</p> <p>"The contributing drainage area for each outfall should be clearly discernable..." The scope of this requirement would involve thousands of records of drainage studies. The Regional Board should be aware that this requirement would be very labor intensive, time consuming, and very costly.</p>
69	<p>69</p> <p>11.c.i</p> <p>Storm drain maps should show watershed boundaries which by definition provide the location and name of the receiving water body. Please revise (3) to read "The name of all receiving water bodies from those MS4 major outfalls identified in (1).</p>
70	<p>69</p> <p>11.c.i.4</p> <p>The LA Permit Group proposes "non-stormwater outfall-based monitoring program" to be flow based monitoring. Please revise item (4) of 11., c. i. to read "(4) monitoring flow of unidentified or authorized non-stormwater discharges, and..."</p>
71	<p>70</p> <p>11.d.i</p> <p>"Monitoring of unknown or authorized discharges" "Authorized" discharges are exempted or conditionally exempted for various reasons. Monitoring authorized discharges is monitoring for the sake of monitoring and offers no clear goal or water quality benefit. Please delete this requirement. If the source of a discharge is unknown, then monitoring may be used as an optional tool to identify the culprit.</p> <p>Please revise the proposed language to "Permittee/Permittees shall develop written procedures for conducting investigations to identify the source of suspected illicit discharges, including procedures to eliminate the discharge once source is located." It is not know if a discharge is illicit until the investigation is completed.</p>

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72	70	11.d.ii	Please revise the proposed language to "At a minimum, each Permittee/Permittees shall initiate an investigation(s) to identify and locate the source within 48 hours of becoming aware of the suspected illicit discharge." Due to the intermittent nature of illicit discharges, it is may not be possible to conduct the investigation within 48 hours.
73	70	11.d.iii.1	"Illicit discharges suspected of sanitary sewage... shall be investigated first." ICID inspectors should be allowed to make the determination of which event should be investigated first.. For example, a toxic waste spill or a truck full of gasoline spill should take precedence over a sewage spill. This requirement should be amended to the "most toxic or severe threat to the watershed" shall be investigated first.
74	70	11.d.iii.4	Please revise the proposed language to "if the source of the discharge is found to be authorized under a NPDES permit...." If the discharge is permitted, then it is not "illicit".
75	70	11.d.iv.1	Please revise the first sentence of the proposed language to "if the source of the illicit discharge has been determined to originate within a Permittee's jurisdiction, the Permittee shall immediately notify the responsible party of the problem, and require the responsible party to conduct all necessary corrective actions to eliminate the illicit discharge within 48 hours of notification." "Non-stormwater" discharges do not equate to "illicit" discharges.
76	70	11.d.iv.2	Please revise the first sentence of the proposed language to "If the source of the suspected illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall..." Unknown discharges are suspected of being illicit discharges, but may in fact prove to be authorized discharges.
77	71	11.d.v	Please revise the proposed language <i>"the Permittee shall work with the Regional Water Board to provide diversion of the entire flow to the sanitary sewer or provide treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion."</i> To "the Permittee shall work with and provide support to the Regional Water Board to continue Progressive Enforcement Policy of the Regional Board."
78	71	11.e.i	In the case that an Illicit Discharge is ongoing, then the discharger can be identified and the responsibility to clean up and eliminate the discharge lies with the discharger. Any illicit discharge for which the Permittee has exhausted their Progressive Enforcement Policy should be deferred to the Regional Water Quality Control Board for additional Progressive Enforcement or permitting. Please revise the first sentence to "Permittee/Permittees, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days..." The process to determine the source of an illicit connection or responsible party may take a considerable time should the suspected source be an unoccupied site.
79	71	11.e.ii	Please revise the "days of completion" from 90 to 180 days. Illicit connections need to be disconnected from the storm drain system in the street Right of Way, which will require plans and permitting. Permitting with in State Right of Way can take on average 60 to 120 days.

**LOS ANGELES PERMIT GROUP COMMENTS
STAFF WORKING PROPOSAL - MINIMUM CONTROL MEASURES
LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT**

80	71	11.f.i	Revise the proposed first sentence to "Permittee/Permittees shall promote, publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into the MS4s through a central contact point..." It is not possible to distinguish authorized discharges from illicit discharges at the outfalls.
81	71& 72	11.f.ii.1&2	Revise "PIP" to "Hotline". The subject of this item is "reporting hotline requirements".
82	72	11.f.iii	Omit this section. "No Dumping" signs have already been posted at open channels.
83	72	11.f.iv	Omit the second sentence. "The procedures shall be evaluated annually to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the Permittee." This is an unnecessary and burdensome requirement. Procedures should be updated and documented as needed.
84	73	11.h.i	Please revise this section to "Permittee/Permittees must continue to implement a training program regarding or require contractors to implement training for the identification of IC/IDs for all municipal field staff who as part of their normal job responsibilities (e.g. street sweeping, storm drain maintenance, collection system maintenance, road maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to the storm drain system. Training program documents must be available for review by the permitting authority." Cities can require contractors to train their staff, but should not be directing contractor staff. The requirement to put notification procedures in fleet vehicles is unnecessary and is covered by the required training.
85	74	"Attachment	On page 74, reference is made to Bioretention/Biofiltration Design Criteria and the Ventura County Technical Guidance Manual. This criterion is likely not fit for LA County given that soils, impervious surface amounts, engineered channels, and agricultural practices are completely different in one county versus the other.

LOS ANGELES PERMIT GROUP COMMENTS
NON-STORM WATER DISCHARGE PROHIBITION – 3/28/2012 STAFF WORKING PROPOSAL
LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT

No.	Page	Citation	Comment
1	1	III.A.1.a and III.A.2	<p>RB staff proposed language requires the permittees to “effectively prohibit non-stormwater discharges into the MS4 and from the MS4 to receiving waters” except where authorized by a separate NPDES permit or conditionally authorized in sections III.A.3-6.</p> <p>This may overstep the required legal authority provisions in the federal regulations since 40CFR122.26 (d)(1)(ii) requires legal authority to control discharges to the MS4 but not from the MS4. Additionally, with respect to the definition of an illicit discharge at 40CFR122.26(b)(2), an illicit discharge is defined as “a discharge to the MS4 that is not composed entirely of stormwater”. In issuing its final rulemaking for stormwater discharges on Friday, November 16, 1990¹, USEPA states that:</p> <p><i>Section 405 of the WQA alters the regulatory approach to control pollutants in storm water discharges by adopting a phased and tiered approach. The new provision phases in permit application requirements, permit issuance deadlines and compliance with permit conditions for different categories of storm water discharges. The approach is tiered in that storm water discharges associated with industrial activity must comply with sections 301 and 402 of the CWA (requiring control of the discharge of pollutants that utilize the Best Available Technology (BAT) and the Best Conventional Pollutant Control Technology (BCT) and where necessary, water quality-based controls), but permits for discharges from municipal separate storm sewer systems must require controls to the maximum extent practicable, and where necessary water quality-based controls, and must include a requirement to effectively prohibit non-stormwater discharges into the storm sewers.</i></p> <p>This is further illuminated by the section on Effective Prohibition on Non- Stormwater Discharges²:</p> <p><i>“Section 402(p)(3)(B)(ii) of the amended CWA requires that permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-storm water</i></p>

¹ 55 FR 47990-01 VI.G.2. Effective Prohibition on Non-Stormwater Discharges

² 55 FR 47990-01 VI.G.2. Effective Prohibition on Non-Stormwater Discharges

**LOS ANGELES PERMIT GROUP COMMENTS
NON-STORM WATER DISCHARGE PROHIBITION – 3/28/2012 STAFF WORKING PROPOSAL
LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT**

No.	Page	Citation	Comment
			<p><i>discharges into the storm sewers. Based on the legislative history of section 405 of the WQA, EPA does not interpret the effective prohibition on non-storm water discharges to municipal separate storm sewers to apply to discharges that are not composed entirely of storm water, as long as such discharge has been issued a separate NPDES permit. Rother, an ‘effective prohibition’ would require separate NPDES permits for non-storm water discharges to municipal storm sewers”</i></p> <p>The rulemaking goes on to say that the permit application:</p> <p><i>“requires municipal applicants to develop a recommended site-specific management plan to detect and remove illicit discharges (or ensure they are covered by an NPDES permit) and to control improper disposal to municipal separate storm sewer systems.”</i></p> <p>Nowhere in the rulemaking is the subject of prohibiting discharges from the MS4 discussed.</p> <p>Furthermore, USEPA provides model ordinance language on the subject of discharge prohibitions: http://www.epa.gov/owow/NPS/ordinance/mol5.htm. Section VII Discharge Prohibitions of this model ordinance provides discharge prohibition language as follows:</p> <p><i>No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.</i></p> <p>Thus we recommend that staff eliminate the “from” language at both Part III.A.1.a. and Part III.A.2.</p>
2	3	III.A.3.b	<p>This provisions outlined in this section are not clear. The provisions may be interpreted as the discharge being “exempt” as long as Table “X” does not contain an issue that is highlighted. Requiring the Permittees to look to Part V or Part VI.D or contact the Executive Officer to verify that there is no new information that will change the original permit determination is confusing.</p>

LOS ANGELES PERMIT GROUP COMMENTS
NON-STORM WATER DISCHARGE PROHIBITION – 3/28/2012 STAFF WORKING PROPOSAL
LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT

No.	Page	Citation	Comment
3	3	III.A.3.b.i and III.A.3.b.ii	We'd suggest that Table "X" be revised to include specific sections in Part V or VI.D that may modify the exempt determination. We'd respectfully request that, based on the Executive Officer's determination of a problem, a recopener clause is added so the Permit may be amended to account for changes exempt/conditionally exempt status.
4	3	III.A.3.b.iii	MS4 Permittees do not have the legal authority to divert and/or treat water from natural springs or riparian wetlands (including those which are spring fed) before they enter the MS4. We believe such flows should be unconditionally exempt from the discharge prohibitions.
5	4	III.A.3.b.x	MS4 Permittees do not have the legal authority to override State or Regional Board authorized discharges from stream diversions. Once the State or Regional Board authorizes a discharge, the State or Regional Board becomes responsible for any pollutants in that discharge. For MS4 Permittees, this discharge should be unconditionally exempt.
6	4	III.A.3.b.xv	The combination of gravity flow and a pumped flow is not appropriate. Gravity flow is not dewatering while pumped flow is dewatering. Please separate the two types of discharge. The installation of drain piping around a below grade foundation wall is intended to provide safety so that water pressure does not build up against a below grade wall. If the built-up water, which is generally not ground water but rather infiltrating rain water, then it can be drained by gravity which is not dewatering and therefore should not require an NPDES permit.
7	4	III.A.3.b.xvi	The conditional exemption of street/sidewalk water is inconsistent with the requirement in the industrial/commercial MCM section that street washing must be diverted to the sanitary sewer. Sidewalk water should be conditionally exempt, but so also should patios and pool deck washing. If street washing has to be diverted to the sanitary sewer for industrial/commercial facilities, then it should for all facilities and so should parking lot wash water as they are similar in their pollutant loads.
8	4	III.A.3.b.xvii	Emergency fire fighting flows should be unconditionally exempt since they are necessary to protect life and property, regardless of whether or not they cause or contribute to an exceedance of RWL and/or WQBEL. To be consistent with the Ventura county permit, and because of the close link between emergency and non-emergency fire-fighting flows, we request all fire-fighting flows be unconditionally exempt or at minimum consider revising some of the proposed conditions of Table X to be more practicable and flexible.
9	6	III.A.5.c.i	Footnote No.10 which expressly prohibits building fire suppression system maintenance (e.g. fire line flushing) discharges to the MS4. With no viable alternative than discharging to the MS4, this prohibition directly conflict with California Health and Safety Code and the State Fire Marshall on the necessity to flush the system. Please delete this explicit prohibition. The requirement to "eliminate irrigation overspray" is impossible to attain. An ordinance that

LOS ANGELES PERMIT GROUP COMMENTS
NON-STORM WATER DISCHARGE PROHIBITION – 3/28/2012 STAFF WORKING PROPOSAL
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10	6	III.A.6	requires Permittees to levy monetary fines against residents is overreach. Please delete this requirement. The provision to require dischargers to notify the Permittee of the discharge, obtain local permits and implement BMPs may not be feasible for many dischargers such as car washing and sidewalk washing. Alternatively municipalities can be required to implement ordinances that require anyone within their jurisdiction to comply with a series of conditions when performing those tasks.
11	6	III.A.7	The requirement to determine whether any of the conditionally exempted non-stormwater discharges is a source of pollutants is a requirement to monitor every non-stormwater discharge. This requirement is overly burdensome on Permittee staff, very costly, and a responsibility that will come into question. Please delete this requirement.
12	7	III.A.8	The requirement of the Permittee to demonstrate that a specific non-stormwater discharge from a potable water supply caused an exceedance is a requirement to monitor every potable water supply discharge. This requirement places all the responsibility on the MS4 Permittees to monitor and test the samples. The burden of proof is placed on the Permittee for any exceedance until proven innocent by way of the monitoring results. Like emergency fire fighting discharges, potable water discharges should be exempt.
13	4	III.A.8	We support an exemption for a Permittee from a violation of RWL and or WQBELs caused by a non-stormwater discharge from a potable water supply or distribution system not regulated by an NPDES permit but required by state or federal statute. This should clearly apply to all NPDES permits issued to others within, or flow through, the MS4 Permittees jurisdiction. We would request that emergency releases caused by potable water line breaks, which are unexpected, and have to be dealt with as an emergency. MS4 permittees should be exempt from RWL or WQBEL violations associated with any permitted NPDES discharges that are effectively authorized by LARWQCB under the Clean Water Act.
14	8	III.A.9	The requirement of the Permittee to demonstrate that a specific non-stormwater discharge from a fire fighting activity caused an exceedance is a requirement to monitor every fire fighting activity, including location, date, time, duration, discharge pathway, and flow volume. This requirement places all the responsibility on the MS4 Permittees to monitor and test the samples, which is both labor intensive with limited personnel and extraordinarily costly. The burden of proof is placed on the Permittee for any exceedance until proven innocent by way of the monitoring results. It should be acknowledged by the Regional Board that fire fighting activity causes pollutants to be discharged. Discharges from all fire fighting activities should be unconditionally exempt, as protection of life and property is paramount.

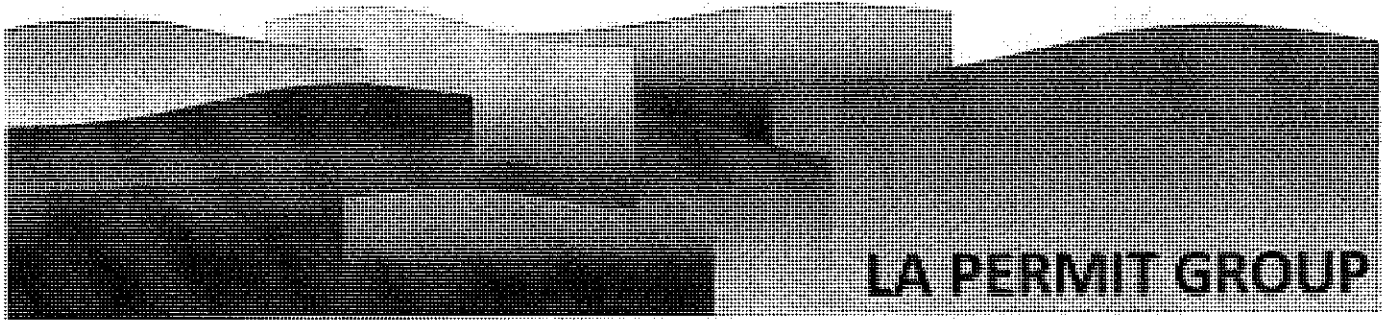
LOS ANGELES PERMIT GROUP COMMENTS
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No.	Page	Citation	Comment
15	Table X	General	Enforcing NPDES permits issued for the various NSWDs referenced in this table should be the responsibility of the State/Regional Board, not the MS4 permittee. Therefore, it is inappropriate to include a condition that places a responsibility on the MS4 permittee to ensure requirements of NPDES permits are being implemented or effective in order for the pertaining NSWD category to be exempt. Proper enforcement of the various NPDES permits mentioned in this table should ensure impacts from these discharges are negligible.
16	Table X	Rising Groundwater	The condition that an NPDES permit is required when rising groundwater occurs where a sump pump is necessary in basement of residential buildings may become a significant burden to the LARWQCB—the number of such occurrences in the LA Basin will be very large.
17	Table X	Landscape Irrigation	Conditions should distinguish new landscape installation from retrofits. These conditions are much easier to require on new landscapes than on existing landscapes.
18	Table X	Swimming Pool/spa dischargers	By imposing additional criteria for the proper discharge of swimming pool water, it greatly increases the complexity for the thousands of homeowners in Los Angeles county to comply with these conditions and may result in fewer amounts of these flows from being dechlorinated. Consider simplifying the proposed conditions.

LA Permit Group Comments on the Draft Order No. R4-2012-XXXX; NPDES Permit NO. CA5004001

Exhibit D:

LA Permit Group Request for Extended Comment Period



July 2, 2012

Maria Mehranian, Chairperson
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th St., Suite 200
Los Angeles, CA 90013

SUBJECT: Comment Period for Draft NPDES Permit for MS4 Discharges

Honorable Chairperson Mehranian:

This letter is to request the Regional Board to provide sufficient time for review the draft NPDES Permit for MS4 Discharges needed to make this process **open and transparent**.

The LA Permit Group is in receipt of the Notice of Opportunity for Public Comment and Notice of Public Hearing for the Draft NPDES Permit for MS4 Discharges and of the draft permit. This draft permit is over 500 pages and incorporates provisions for 33 TMDLs and implementation requirements, new low impact development requirements and extensive new requirements for new water quality monitoring, however our permittees have been given only 45 days to provide written comments.

While we understand a new MS4 Permit is long overdue in LA County, we do not understand why the Regional Board would want to rush this landmark regulation through the approval process. It is in everyone's best interest to keep the permitting process as open and transparent as possible. Through this entire process, the LA Permit Group has committed to a process that would cooperatively develop the next MS4 Permit. We have made every effort to stay engaged in the process and have proactively sought involvement in all aspects of the Permit development. The LA Permit Group is appreciative of the efforts the Board and Staff has taken to review certain aspects of the Permit with permittees in workshops; however, upon release of the Tentative, many of the Permit provisions contained substantial changes from previous versions, or contained brand new sections that we had not yet seen throughout this process. Seeing the permit in its entirety and having the opportunity to understand how each of the sections and programs work together is imperative in order for permittees to fully understand the permit provisions and to prepare comments.

We believe the Regional Board wants a review process that is open and transparent; however, providing permittees only 45 days to comment makes it impossible for this process to be open and transparent. In order to develop and provide relevant and meaningful comments, each permittees must first:

- Read a 500 page permit,
- Study the 500 page permit to understand how the provisions work together,
- Compare it to the last permit,
- Evaluate the resource needs to comply with the permit,
- Determine the fiscal and organizational impacts on city services; this requires coordination with several city departments,
- Prepare legal review and comments,

- Present information to and gather feedback from municipal governing body (the process of scheduling an item for a City Council Agenda requires at least 30-60 days in most cities). This does not allow staff time to conduct the following items listed above prior to presenting to their governing bodies, and then
- prepare written comments

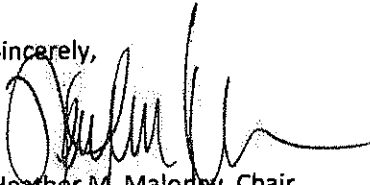
Additionally, emphasis on coordination of comments has been called out in the Notice of Opportunity for Public Comment and Notice of Public Hearing for the Draft NPDES Permit. The 45-day comment period does not allow time for permittees to fully discuss the permit amongst each other in order to adequately coordinate comments and responses. This process is not only desired by permittees, but also necessary as many of the permit provisions are intended for permittees to work together on a watershed (or sub-watershed) scale. In order to fully understand how these provisions will work on a watershed scale, it is necessary that permittees (staff and elected officials) be allowed adequate time to fully understand the permit, coordinate and prepare comments.

Furthermore, for this process to be clearly open and transparent, permittee (City) staff should be given sufficient time to vet this permit within our agency staff and with our elected officials and then be given time to discuss and negotiate issues with Regional Board staff prior to the Tentative Draft comments due date.

The LA Permit Group respectfully requests for the comment period to be extended by **180 working days** for permittees to first try to work with Regional Board staff to draft a permit that has a reasonable chance for compliance and then prepare written comments on un-resolved issues. Additionally, we request that a Revised Tentative Permit be released with a 45-day comment period so that permittees have the opportunity to see any changes made to the Permit and have the chance to provide comments prior to the Adoption Hearing.

If you have any questions or request additional information, I may be reached at (626) 932-5577 or hmaloney@ci.monrovia.ca.us.

Sincerely,



Heather M. Maloney, Chair
LA Permit Group

cc: Charles Stringer, Vice Chairperson
Francine Diamond, Boardmember
Mary Ann Lutz, Boardmember
Madelyn Glickfield, Boardmember
Maria Camacho, Board member
Irma Camacho, Boardmember
Lawrence Yee, Boardmember
Samuel Unger, Executive Officer
Senator Ed Hernandez
Senator Bob Huff

Exhibit E:

RWL submitted by CASQA re Caltrans permit



California Stormwater Quality Association

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

June 26, 2012

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board

Subject: State of California Department of Transportation Municipal Separate Storm Sewer System Permit Second Revised Draft Tentative Order

Dear Ms. Townsend:

The California Stormwater Quality Association appreciates this opportunity to comment on the subject Caltrans Municipal Separate Storm Sewer System (MS4) Permit Second Draft Tentative Order (draft Tentative Order). CASQA typically comments on individual MS4 permits only when there is an issue of potential statewide significance. Accordingly, we are compelled to comment on the Receiving Water Limitations provisions incorporated into the draft Tentative Order.

The Draft Tentative Order in Provisions A and C will expose the Department to unwarranted and immediate liability.

CASQA believes the current revision of the receiving water limitations section is contrary to established Board policy and appears to create an inability for Caltrans to comply. Multiple constituents in stormwater runoff on occasion may be higher than receiving water quality standards before it is discharged into the receiving waters, and may create the potential for the runoff to cause or contribute to exceedances in the receiving water itself. Previously, MS4s have presumed that permit language like that expressed in Receiving Water Limitation D.4 in conjunction with Board Policy (WQ 99-05) established an iterative management approach and process as the fundamental, and technically appropriate, basis of compliance. The "iterative process language" now at issue in the draft Tentative Order, however, combined with General Discharge Prohibition A.4, renders the iterative process obsolete as a compliance strategy. Moreover, in the wake of the July 2011 Ninth Circuit Court of Appeal's decision, if this language is not revised, the precedent may be set for municipal permits that create unlimited liability for government entities across the State.

As you know, on July 13, 2011, the United States Court of Appeals for the Ninth Circuit issued an opinion in *Natural Resources Defense Council, Inc., et al., v. County of Los Angeles, Los Angeles County Flood Control District, et al.* (NRDC v. County of LA). The court's opinion addressed two key issues for California's MS4s, one of which is directly applicable here, that being whether a permittee who is in compliance with the iterative process is nevertheless still in violation of a MS4 permit that contains language like that proposed for Caltrans.

CASQA comments on Caltrans MS4 Permit Second Revised Draft Tentative Order

Like the Caltrans draft Tentative Order, the County of Los Angeles MS4 permit includes Receiving Water Limitations language that is consistent with the language developed by the State Water Board in its Order WQ 99-05. In previous State Water Board orders, the Board indicated that the language specified in Order WQ 99-05 did not require strict compliance with water quality standards. The language in question is often referred to as the “iterative process.”

However, contrary to the State Water Board’s stated intent and the understanding of CASQA, the Ninth Circuit Court of Appeals found that, because the iterative process paragraph did not explicitly state that a party who was implementing the iterative process was not in violation of the permit, a party whose discharge “causes or contributes” to an exceedance of a water quality standard is in violation of the permit, even though that party is implementing the iterative process in good faith.

As a result of the court’s decision, if the draft language is not changed, all discharges to receiving waters must meet water quality standards to avoid being in violation of permit terms. Although an important goal, no one reasonably expects Caltrans or any other municipal permittee to be able to meet this goal now. Indeed, the impossibility of meeting this goal is reflected by the hundreds of TMDLs across the state that specifically recognize that water quality standards cannot currently be met, often for reasons beyond Caltrans or other permittees’ control, and that instead an adaptive program over a span of several years or longer is necessary.

Thus, unless this language is changed, Caltrans may be vulnerable to enforcement actions by the state and third party citizen suits alleging violations of the permit terms in question. Indeed, the liability resulting from a failure to address these provisions may be a risk to Caltrans regardless of the current or future enforcement policy of the State or Regional Water Boards. For example, the City of Stockton was engaged in the iterative process per the terms of its Permit, but was nonetheless challenged by a third-party on the basis of the Receiving Water Limitations language. There is no regulatory benefit to imposing permit provisions that result in the potential of immediate non-compliance for the Permittee.

To avoid undercutting the regulatory benefits of the State Water Board’s program for Caltrans (and other MS4s), the Receiving Water Limitations language must be revised. In an attempt to avoid this undercutting we have attached proposed language for the Receiving Water Limitation provision. CASQA believes that our suggested Receiving Water Limitations language is drafted in a manner to clearly indicate that compliance with the iterative process provides effective compliance with the discharge prohibition (General Discharge Prohibition A.4), and the “shall not cause or contribute” receiving water limitations (Receiving Water Limitations D.2 and D.3). Furthermore the proposed language allows the MS4s to focus and prioritize their resources on critical water quality issues that will lead to water quality improvement, such as those reflected by the TMDLs. We therefore request further consideration of this or other alternative language so as to avoid a situation where, even if Caltrans is in complete compliance with the iterative process provisions, it could be subject to significant liability and lawsuits.

We thank you again for the opportunity to provide our comments and we ask that the Board carefully consider them and our suggested Receiving Water Limitations language for the

CASQA comments on Caltrans MS4 Permit Second Revised Draft Tentative Order

Caltrans permit. If you have any questions, please contact CASQA Executive Director Geoff Brosseau at (650) 365-8620.

Sincerely,

A handwritten signature in black ink that reads "Richard Boon". The signature is written in a cursive, slightly slanted style.

Richard Boon, Chair

cc: CASQA Board of Directors and Executive Program Committee

Attachment – CASQA Proposed Language for Receiving Water Limitation Provision



California Stormwater Quality Association

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

February 21, 2012

Mr. Charles Hoppin, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Receiving Water Limitation Provision to Stormwater NPDES Permits

Dear Mr. Hoppin:

As a follow up to our December 16, 2011 letter to you and a subsequent January 25, 2012 conference call with Vice-Chair Ms. Spivy-Weber and Chief Deputy Director Jonathan Bishop, the California Stormwater Quality Association (CASQA) has developed draft language for the receiving water limitation provision found in stormwater municipal NPDES permits issued in California. This provision, poses significant challenges to our members given the recent 9th Circuit Court of Appeals decision that calls into question the relevance of the iterative process as the basis for addressing the water quality issues presented by wet weather urban runoff. As we have expressed to you and other Board Members on various occasions, CASQA believes that the existing receiving water limitations provisions found in most municipal permits needs to be modified to create a basis for compliance that provides sufficient rigor in the iterative process to ensure diligent progress in complying with water quality standards but also allows the municipality to operate in good faith with the iterative process without fear of unwarranted third party action. To that end, we have drafted the attached language in an effort to capture that intent. We ask that the Board give careful consideration to this language, and adopt it as 'model' language for use statewide.

Thank you for your consideration and we look forward to working with you and your staff on this important matter.

Yours Truly,

Richard Boon, Chair
California Stormwater Quality Association

cc: Frances Spivy-Weber, Vice-Chair – State Water Board
Tam Doduc, Board Member – State Water Board
Tom Howard, Executive Director – State Water Board
Jonathan Bishop, Chief Deputy Director – State Water Board
Alexis Strauss, Director – Water Division, EPA Region IX

CASQA Proposal for Receiving Water Limitation Provision

D. RECEIVING WATER LIMITATIONS

1. Except as provided in Parts D.3, D.4, and D.5 below, discharges from the MS4 for which a Permittee is responsible shall not cause or contribute to an exceedance of any applicable water quality standard.
2. Except as provided in Parts D.3, D.4 and D.5, discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause a condition of nuisance.
3. In instances where discharges from the MS4 for which the permittee is responsible (1) causes or contributes to an exceedance of any applicable water quality standard or causes a condition of nuisance in the receiving water; (2) the receiving water is not subject to an approved TMDL that is in effect for the constituent(s) involved; and (3) the constituent(s) associated with the discharge is otherwise not specifically addressed by a provision of this Order, the Permittee shall comply with the following iterative procedure:
 - a. Submit a report to the State or Regional Water Board (as applicable) that:
 - i. Summarizes and evaluates water quality data associated with the pollutant of concern in the context of applicable water quality objectives including the magnitude and frequency of the exceedances.
 - ii. Includes a work plan to identify the sources of the constituents of concern (including those not associated with the MS4 to help inform Regional or State Water Board efforts to address such sources).
 - iii. Describes the strategy and schedule for implementing best management practices (BMPs) and other controls (including those that are currently being implemented) that will address the Permittee's sources of constituents that are causing or contributing to the exceedances of an applicable water quality standard or causing a condition of nuisance, and are reflective of the severity of the exceedances. The strategy shall demonstrate that the selection of BMPs will address the Permittee's sources of constituents and include a mechanism for tracking BMP implementation. The strategy shall provide for future refinement pending the results of the source identification work plan noted in D.3. ii above.
 - iv. Outlines, if necessary, additional monitoring to evaluate improvement in water quality and, if appropriate, special studies that will be undertaken to support future management decisions.
 - v. Includes a methodology (ies) that will assess the effectiveness of the BMPs to address the exceedances.
 - vi. This report may be submitted in conjunction with the Annual Report unless the State or Regional Water Board directs an earlier submittal.

- b. Submit any modifications to the report required by the State or Regional Water Board within 60 days of notification. The report is deemed approved within 60 days of its submission if no response is received from the State or Regional Water Board.
 - c. Implement the actions specified in the report in accordance with the acceptance or approval, including the implementation schedule and any modifications to this Order.
 - d. As long as the Permittee has complied with the procedure set forth above and is implementing the actions, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the State Water Board or the Regional Water Board to develop additional BMPs.
4. For Receiving Water Limitations associated with waterbody-pollutant combinations addressed in an adopted TMDL that is in effect and that has been incorporated in this Order, the Permittees shall achieve compliance as outlined in Part XX (Total Maximum Daily Load Provisions) of this Order. For Receiving Water Limitations associated with waterbody-pollutant combinations on the CWA 303(d) list, which are not otherwise addressed by Part XX or other applicable pollutant-specific provision of this Order, the Permittees shall achieve compliance as outlined in Part D.3 of this Order.
5. If a Permittee is found to have discharges from its MS4 causing or contributing to an exceedance of an applicable water quality standard or causing a condition of nuisance in the receiving water, the Permittee shall be deemed in compliance with Parts D.1 and D.2 above, unless it fails to implement the requirements provided in Parts D.3 and D.4 or as otherwise covered by a provision of this order specifically addressing the constituent in question, as applicable.



City of Sierra Madre

Public Works Department

July 23, 2012

Mr. Ivar Ridgeway
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
(213) 620-2150

Subject: Tentative MS4 Order Comments

Dear Mr. Ridgeway:

The City of Sierra Madre appreciates the opportunity to submit comments for your consideration in re: Order No. R4-2012-XXXX NPDES Permit No. CAS004001.

Please note that the City has also attached the comments submitted to you from the Los Angeles Stormwater Permit (LAPG) group. The City of Sierra Madre has participated with the LAPG group in producing the comments and fully supports the comments in their entirety.

In addition to the attached LAPG comments, the City of Sierra Madre would like to separately and specifically address a few components of the Draft Order that are of major concern to the City of Sierra Madre.

- We feel that the review and comment period for this Draft Order must be extended. At a minimum, we request that the permit adoption hearing be scheduled after September 6-7 so as not to conflict with the League of California Cities Conference that will be attended by Sierra Madre management staff. We support the request of the LASP that the Regional Board provide another complete second draft and provide 180 days to review and comment.
- We feel that the Receiving Water Limitation language should be completely reconsidered in light of the numerous and varied issues that are outlined in the LASP comments. And we support the recommendation to use the draft language that was developed by the California Association of Stormwater Quality (CASQA).

232 West Sierra Madre Blvd., Sierra Madre, CA 91024
Telephone (626) 355-7135 Fax (626) 355-2251

- As small city with a volunteer fire department and a municipal water provider for approximately 3600 metered water services the City of Sierra Madre believes that this permit contains a positive development in that it recognizes that Community Water Systems (CWSs) and Fire Departments (FDs) have legal obligation under both state and federal statute and regulation to discharge water for the protection of public health and safety. Sierra Madre supports the regulatory accommodations provided in this permit which will allow CWSs, FDs, and MS4 Permittees to work together to resolve water quality problems rather than placing them a position where conflict would have resulted. The City of Sierra Madre would like to offer the following comments:

- **Regarding footnote 8 on the bottom of page 27:**

- While in technical terms "raw water" is not potable, there is a very slight possibility that the pipeline linking the city's source of raw water with our groundwater recharge facility may leak due to age or private contractor error. This raw water pipeline is a part of the city's potable water supply source and therefore an integral part of our potable water system. Thus, we respectfully request that the term "raw water" be included in the footnote language as noted below.

"8 Potable water distribution system releases means sources of flows from drinking water storage, supply and distribution systems (including flows from system failures and raw water), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and minor non-invasive well maintenance activities not involving chemical addition(s) where not otherwise regulated by NPDES Permit No. CAG674001, NPDES Permit No. CAG994005, or another separate NPDES permit."

- **Regarding Top of Page 28, Clarification of the one acre-foot threshold.**

- As written, it is possible to interpret the one acre-foot threshold as applying to the cumulative total of smaller discharges which exceeds one acre-foot and/or as applying only to the third measure, "record keeping". We believe that the intent of the language is that all individual discharges greater than one acre-foot need to have all three of the noted actions taken. So we recommend that the text be re-

written so that it is clearer that the threshold applies to all requirements. This should be done in Table 8 as well.

"Additionally, each Permittee shall work with potable water suppliers that may discharge to the Permittee's MS4 to ensure that all individual discharges greater than one-acre foot shall have: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern⁹ in the potable water supply release; and (3) record keeping by the potable water supplier. ~~for all discharges greater than one-acre-foot.~~^{10"}

- **Regarding Footnote 9 at the bottom of Page 28:**
 - This footnote is difficult to interpret and contains analyses of marginal significance. We believe that it should be consistent with Footnote 10 where the analysis of chlorine residual and pH are required. Further, the language used in this footnote makes more sense in Table 8 and as a result we propose the following changes:
 - ⁹ Pollutants of concern include, at a minimum, ~~trash and debris, including organic matter, total suspended solids (TSS),~~ chlorine residual, pH, and any pollutant for which there is a water quality-based effluent limitation in Part VI.E applicable to discharges from the MS4 to the receiving water.
- Page 33, Table 8: ~~Segregate conditionally exempt non-storm water discharges from potential sources of pollutants to prevent introduction of pollutants to the MS4 and receiving water.~~
- Essential Conditionally Exempt Non-Storm Water Dischargers (CENSWDs) must ensure flow path between discharge point and entrance to the MS4 (e.g. streets, gutters, swales) is free of trash and debris, organic matter, and potential sources of pollutants.
- **Regarding Page 29 III. DISCHARGE PROHIBITIONS 4 a ii:**
 - We believe that this provision does not serve any purpose. If a local MS4 owner or operator requires a local permit, the MS4 permit does not need to require the permittee to require that permit, it is already required. If the local MS4 owner or

operator does not require a local permit, the MS4 permit does not change that. We propose that this provision be eliminated entirely.

- ~~Obtains any local permits required by the MS4 owner(s) and/or operator(s);~~

- Regarding Page 33, Table 8.

- The provision for LACFCD to mandate reporting by potable water suppliers does not make sense. LACFCD has no legal mechanism to enforce this provision except where the discharge is to a County owned right of way, which is in only a very small number of cases. It makes much more sense and is consistent with the rest of the permit to require each MS4 permittee to have this requirement.

~~"Whenever there is a discharge of one acre-foot or more into the MS4, the **Los Angeles County Flood Control District MS4 Permittee** shall require advance notification by the discharger to the MS4 Permittee. **to the potentially affected MS4 Permittees, including at a minimum the District and the permittee with jurisdiction over the land area from which the discharge originates.**"~~

- Regarding Page 29 Permittee Requirements:

- This section makes frequent references to Table 8 which are BMPs for Non-Essential CESNSWD (except for the very first one which covers both Essential and Non-Essential CESNSWDs). However it is confusing as worded. The text could read...

~~"Develop and implement procedures to ensure that a discharger, if not a named permittee in this Order, fulfills the following non-stormwater discharges to the Permittee's MS except as provided in III A 2 a i. and ii."~~

- **General Comment: The Board may wish to consider using the terms Essential CENSWD and Non-Essential CENSWD for clarity's sake. It is difficult to discuss the provision of this permit without some sort of definitive terminology.**

- Finally, we reject the explanations contained within the Draft Order that pertain to economic implications, including the determination that this Draft Order does not qualify as an 'unfunded mandate' in the State of California. We are in agreement with the numerous written and oral comments from many agencies that demonstrate that the Draft Order requirements are beyond the scope of Federal Regulations.

Thank you for the opportunity to submit comments on this very important matter. Should you have any questions, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Inman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce Inman
Director of Public Works
City of Sierra Madre



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Los Angeles Region

Over 50 Years Serving Coastal Los Angeles and Ventura Counties
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Gray Davis
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320 W. 4th Street, Suite 200, Los Angeles, California 90013
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January 30, 2002

The Los Angeles Regional Water Quality Control Board is deeply concerned that storm water and urban runoff pollution continues to be the single greatest threat to our water quality in the Los Angeles region. To address this threat, this Regional Board, and indeed all Regional Boards throughout the State of California, are required by federal law to issue permits to municipalities so that, over time, this source of pollution is reduced to the maximum extent practicable. Last month, the Los Angeles Regional Board adopted an updated permit, the third issued in Los Angeles County since 1990, that includes updated measures intended to bring us closer to water quality that will meet our water quality standards.

Collectively, we are obligated by law to have a storm water permit that moves us forward in controlling this source of pollution. Federal law makes the cities and county responsible for what is discharged from their storm water collection system. Similarly, federal and state law make the Regional Board responsible for issuing permits that protect the waters of the Los Angeles region. There is no doubt that storm water pollution is a serious threat to our environment and economy and there is no doubt that "upstream communities" contribute significantly to the level of pollutants that find their way to our beaches. As each of you already know, the "Clean Beaches Program" is one of our highest environmental quality priorities.

The permit is very practical in its approach. The County of Los Angeles remains the lead Permittee and this arrangement allows individual cities to avoid many obligations and costs that they might otherwise incur. The permit adopted by the Regional Board was substantially modified from its first draft issued in April 2001. Three full drafts were prepared, each in turn, incorporating many of the comments offered by the cities as well as the county, who are together, responsible for permit implementation. In summary, the staff of the Regional Board expended enormous effort to meet with representatives of the Permittees over an eleven-month period, culminating in two mediation sessions facilitated by the United States Environmental Protection Agency and many changes made to the permit that reflected the preferences of the Permittees.

We understand that there are two principal areas of concern that have been raised during the development of the permit and which remain of concern. These are:

- Receiving water quality and the process to be used under the permit to address a lack of progress in meeting water quality standards and,
- A provision to shift from "site education visits" at pollution sources to "site inspections".

The former provision on receiving water language and what has come to be known as the "iterative" process, is language previously approved by the State Water Resources Control Board. This language has been contained in all municipal storm water permits in California since 1999. The State Board shaped the language as part of a precedential decision to address the concerns of dischargers and the environmental community, and to protect water quality. Because the language arises from a State Board

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations

EXHIBIT D

precedential decision, the Regional Board did not have the discretion to depart from its provisions in any significant way.

The receiving water compliance process outlined in the permit allows for each Permittee to work cooperatively with the Regional Board to identify additional measures, if required, to improve water quality to meet receiving water standards. If the measures adopted do not achieve that result, further measures can be developed. This iterative approach is intended to obtain progress over time. The provision is expressly intended to serve as the vehicle by which the Regional Board will obtain Permittee compliance with receiving water standards. To that end, the key aspect is that a good faith effort be pursued by Permittees to utilize this process.

The latter provision on inspections is a limited effort to identify and correct sources of pollution that represent a significant threat to water quality. As contained in the permit, the inspection obligation is limited in scope and represents a minimal level of effort from that already required in the existing educational site visit program. A number of changes in the provisions of the inspection program were made as a result of the mediation process. It must also be noted that the inspection provision allows a considerable period of time to the Permittees to complete the first round of inspections (two and a half years) and significantly limits the scope of the inspection to the barest of requirements.

The storm water permit adopted by the Regional Board is a carefully crafted response to the pollution caused by storm water and seeks to advance our efforts to control pollution at its source while limiting permit obligations on each city to the greatest possible degree. Yet, I am deeply concerned that the story of this permit has not been fully communicated to each leader in our community.

Enclosed with this letter is a Question and Answer document that is intended to respond to some of the most important points raised by those who dispute elements of this permit. Each of us has an obligation to fulfill our responsibilities in a reasonable manner. I believe that the Regional Board has pursued a fair and equitable process, affording everyone involved the utmost opportunity for participation and comment. To a very great degree the comments made by Permittees were incorporated in the final permit. Nevertheless, the Regional Board's Executive Officer will, in the near future, be meeting with city and county representatives to engage in a dialogue to ensure that the provisions of the permit are clearly understood and, that any uncertainty in how elements of the permit are to be implemented, are discussed.

In closing, I simply ask that you weigh the advantages of improved water quality with the very limited additional obligations that each city is asked to assume. After careful consideration, it is my hope that the distraction of appeals and potential litigation and its costs will give way to a renewed commitment to improving the quality of our shared environment to the benefit of our citizens today and for future generations.



Francine Diamond
Chair

enclosure

California Environmental Protection Agency

*****The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption***
For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>**



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

PROOF OF SERVICE
In the Matter of Petition of: City of Sierra Madre from
California Regional Water Quality Control Board, et al

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I, Martha C. Rodriguez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 300 S. Grand Avenue, Suite 2700, Los Angeles, California 90071-3137. On December 10, 2012, I served the document(s) described as **PETITION FOR REVIEW; REQUEST FOR IMMEDIATE STAY** on the interested parties in this action as follows:

By placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Samuel Unger, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region 320 West Fourth Street, Suite 200
Los Angeles, CA 90013

BY MAIL: The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

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

Executed on December 10, 2012, at Los Angeles, California.


Martha C. Rodriguez

Colantuono & Levin, PC
300 S. GRAND AVENUE, SUITE 2700
LOS ANGELES, CA 90071-3137