

ATTACHMENT A

REVIEW OF SUBMITTED DRAINAGE AREA MANAGEMENT PLAN (DAMP) SECTION 7 AND MODEL WATER QUALITY MANAGEMENT PLAN (WQMP), Dated May 21, 2003

[Note, revised page numbers refer to placement in website version of updated Section 7 of the DAMP, see 3rd paragraph of the attached comment letter for more explanation]



California Regional Water Quality Control Board

Santa Ana Region



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May 21, 2003

Mr. Chris Crompton
County of Orange PFRD
1750 South Douglass Road
Anaheim, CA 92806

SUBJECT: REVIEW OF SUBMITTED DRAINAGE AREA MANAGEMENT PLAN (DAMP) SECTION 7 AND MODEL WATER QUALITY MANAGEMENT PLAN (WQMP)

Dear: Mr. Crompton

As specified by Order R8-2002-0010 (MS4 Permit), Section XII.B, the Permittees have submitted a updated Section 7 "New Development/Significant Redevelopment" of the Drainage Area Management Plan (DAMP) and a model Water Quality Management Plan (WQMP).

We have reviewed the submitted DAMP Section 7 and model WQMP and have, overall, found the model WQMP to be consistent with the requirements set forth in Section XII.B of the MS4 Permit. The following is a list of discrepancies, deficiencies, and items requiring further clarification in the submitted documents.

Please note that the review and comments address the DAMP Section 7 and model WQMP that were submitted to the Regional Board on February 28, 2003 and the section and page numbers reflect those of the submittal. Further, these comments are based on our initial review of these documents and as the public review process proceeds and additional information becomes available through the various meetings being held on the DAMP update, the Natural Treatment Systems being proposed as regional treatment controls, and other aspects of the MS4 Permit, additional comments will be forthcoming.

1. Section 7.2.1, Page 3, second to last bullet should be changed to "Each private grading permit applicant with a development greater than ~~five (5)~~ one (1) acres (or less than one acre if it is part of a larger common plan of development or sale which is one are or more), is required to provide proof of coverage under the Statewide General Construction Permit."

2. Section 7.2.1, Pages 3-4 describes the process of re-establishing the New Development/Construction Task Force and identifies the participants. During the initial MS4

California Environmental Protection Agency



permit renewal meetings held between Orange County and Santa Ana Regional Board (Regional Board) staffs in September 2000, Regional Board staff recommended that the Task Force include members of the environmental community. This would have allowed any major issues to be fully discussed early in the process rather than after submittal of the final draft. It appears that so far, the environmental community has not been included in this process.

3. Section 7.4.3, Page 13 states in the last paragraph of the Section 7.4.3, that adapting a General Plan to incorporate water quality protection/storm water quality management principles may not be necessary, particularly for built-out, inland cities with no sensitive water resources within their jurisdiction. This comment, as well as others throughout the reviewed documents, fails to recognize that inland cities and inland waters are often upstream of coastal waters and sensitive water resources and must therefore implement these principles to protect these waters that are outside of their jurisdiction.

4. Section 7.6.2, Page 25 identifies redevelopment activities not considered “Significant Redevelopment” in the last paragraph on the page. While Regional Board staff agrees that re-surfacing activities, new pedestrian ramps and replacement of damaged pavement should not be considered “Significant,” Regional Board staff concludes that reconfiguring surface parking lots and construction of sidewalks and bike lanes would be considered “Significant” if it results in the addition of 5,000 or more square feet of impervious surface, as per Section XII.B.1.a of Order No. R8-2002-0010, NPDES No. CAS 618030, Areawide Storm Water Runoff Permit for Orange County and the Incorporated Cities (Permit).

5. Section 7.6.2, Pages 24 5-26 contain Table 7-1, the “Priority Projects Categories” and a description of Significant Redevelopment categories. While mentioned in the text of page 25, “Significant Redevelopment”, as defined in Section XII.B.1.a of the Permit must be included in Table 7-1. Further, Page 26 lists three categories of redevelopment, identifying some as not requiring treatment controls and some not requiring a Project WQMP. The defining criteria for these three categories is whether the project would meet another “Priority Project Category” or “require discretionary action that will include a precise plan of development or require issuance of a non-residential plumbing permit.” There are no such criteria set forth in Section XII.B of the Permit. It was clearly the intent of the Permit that all redevelopment resulting in the addition of 5,000 or more square feet of impervious surface require the preparation of a Project WQMP and require minimum structural BMPs that meet the conditions in Sections XII.B.2 through XIII.B.6.

6. Section 7.6.2, Page 27 states in the first full paragraph on the page, “... whereas other ministerial approvals may not necessitate a WQMP. For example, applications for grading or building permits for projects or activities that do not meet the minimum requirements would not require the preparation of a WQMP ...” It is not clear from this paragraph that all projects, both ministerial and discretionary, that meet the criteria set forth in Section XII.B.1, will require a Project WQMP.

7. Section 7.6.2, Page 27 8 contains Figure 7-3, “Development Project Review, Approval and Permitting” and it is not clear whether the actions outlined in the flow chart are applicable to

both private and municipal projects. The final box of the flow chart in Figure 7-3 is “Tracking, Inspection and Enforcement”. Are there mechanisms currently in place to track and monitor Public Agency Projects?

8. Section 7.6.3, Page 29-30, first bullet under General Conditions contains the phrase “... (add grubbing, clearing, surface mining or paving permits as appropriate) ...”. While this appears to be an internal editorial comment, please note that the General Permit For Storm Water Discharges Associated With Construction Activity (Water Quality Order No. 99-08-DWQ) (General Construction Permit) requires coverage for ground disturbing activities that includes “clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area”, but does not include “routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety. Dischargers should confirm with the local RWQCB whether or not a particular routine maintenance activity is subject to this General Permit.”

9. Section 7.6.3, Page 31 2 requires in the third bullet top paragraph on the page, that an “... applicant shall demonstrate that coverage under the permit has been obtained providing a copy of the Notice of Intent (NOI) ... or other proof of filing.” Please note that the next re-issuance of the General Industrial Permit (anticipated in late 2003) will allow those facilities that have no exposure of processes, materials or wastes to storm water to certify ‘no exposure’ and submit a Notice of No Exposure to the State or Regional Board on a regular basis (every one to five years).

10. Section 7.6.3, Page 31 2 states in the fourth second bullet, “Prior to the issuance of any building permits, the applicant shall include in the plans any urban runoff control measures deemed necessary by the Planning and Development Services Department.” At a minimum, the requirements in Section XII.B of the Permit must be met. If this statement refers to control measures in addition to those required in Section XII.B, it should so be noted.

11. Section 7.6.4, Page 32 3 states in the last paragraph, “The WQMP is a planning level document and as such is not expected to contain BMP design details but provide design parameters, typically in the form of BMP fact sheets.” It may be that the permittees consider the Model WQMP is a planning level document, but Project WQMPs will certainly require BMP design details. Further, this paragraph references only the BMP Handbook developed by the California Association of Stormwater Agencies (CASA). Sole reliance on the BMPs presented in the set of handbooks produced by CASA will not meet the ‘Maximum Extent Practicable’ (MEP) benchmark established by this Permit. First, The MEP criteria is the benchmark for municipal permittee’s activities. The benchmark for private construction and industrial activities is best available technology, economically achievable (BAT) and best conventional pollutant control technology (BCT). As to BMP reference materials, other relevant data, documentation and BMPs must be considered. Finally, the BMP handbooks produced by CASA have not be fully reviewed or approved by the State or Regional Boards and should be considered as a single element in a library of BMP design criteria, procedures, parameters and inspection/maintenance requirements.

12. Section 7.6.4, Page 35 7 states in the last paragraph of Section 7.6.4, “The main reference for designing permanent BMPs is the California Stormwater Best Management Practice Handbook ...”. As stated in number 11 above, the CASA BMP handbook is not the main reference and represents only one of many resources necessary to meet the MEP benchmark. Also, this comment should be applied to all references to the CASA BMP handbooks in Section 7 and it’s appendices.

13. Section 7.6.5, Pages 35 7-36 8 contains a bulleted list under “Standard Notes for Plan Sheets”. The second and third bullets require sites to “minimize” sediment transport. These statements should require sites to “eliminate or reduce using best available technology, economically achievable (BAT) and best conventional pollutant control technology (BCT)” (see Comment 11).

The fourth bullet contains the phrase “... unless treated to reduce or remove sediment and other pollutants” must be removed, as this is an unauthorized, non-storm water discharge.

The seventh bullet contains the sentence “Dischargers of material other than stormwater are allowed only when necessary for performance and completion of construction practices...”. This bullet should be better tied to the specific activities and requirements in Finding 10 of the General Construction Permit. Further, it should be noted that discharge of pipe flushing/testing water may require a de minimus permit from the respective Regional Board.

The eighth bullet discusses dewatering activities. It should be clarified that the first sentence applies to dewatering groundwater that has infiltrated into construction excavations. The second sentence should be eliminated as this ‘permitted’ dewatering activity is post construction.

14. Section 7.6.5, Page 37 9 contains the section “Plan Check for Projects with Alternate Treatment Control BMPs” that “... require[s] the project’s engineer of record to certify the Alternative Treatment Control BMPs as being equally or more effective in pollutant reduction than comparable BMPs found in the Model WQMP”. Understand that the Municipal Permittee acceptance of this certification shifts the responsibility of the adequacy of these alternate treatment control BMPs to the Municipal Permittee and they should therefore rigorously review these certifications.

15. Section 7.6.6, Pages 37 9-38 40 contains a bulleted list and the sixth bullet should include a reference to a No Exposure Certification as noted in Comment 9.

The paragraph after that bulleted list contains the phrase “A structural BMP is not considered effective, nor are maximum extent practicable criteria met...”. Please note that the MEP criteria is the benchmark for Municipal permittee’s activities, private industrial and construction activities must meet the best available technology, economically achievable (BAT) and best conventional pollutant control technology (BCT) benchmark (see Comment 11).

16. Section 7.6.6, Page 38 40 describes the establishment of the Operations and Maintenance Plan for structural BMPs. The sentence pertaining to the minimum annual inspection/maintenance schedule should include language that at least one inspection and any required maintenance be performed in late summer/early fall, prior to the start of the rainy season, to maximize the effectiveness of the BMPs and maximize any pollutant removal through maintenance (sediment/trash removal from BMP).

17. Section 7.II-1.0, Page 1 uses the MEP standard in the first paragraph when referring to reducing pollutants and runoff increases as a result of new and significant redevelopment. As stated in Comments 11, 13 and 15, the benchmark for private construction and industry is best available technology, economically achievable (BAT) and best conventional pollutant control technology (BCT).

The third bullet should be changed to read “Incorporation of project-based Treatment Control BMPs; and/or participation in an approved regional or watershed management program in the affected watershed.”

18. Section 7.II-1.0, Page 2 contains Table 7.II.1 “Priority Project Categories”. The redevelopment category as identified in Section XII.B.1 of the Permit needs to be added.

Some of the five bullets on this page contain the phrases “... unless not applicable ...” and “... those BMPs included and not included ...”. An applicant should identify clearly and specifically why a Source Control BMP was not applicable to the project and why a Site Design BMP was not included. Municipal Permittees should thoroughly evaluate those explanations as they will be held responsible for acceptance.

Bullet 3 states “Either implement Treatment Control BMPs ...; or participate in or contribute to an acceptable regional or watershed management program”. It should be made clear that unless the regional or watershed management program adequately addresses all pollutants of concern from a site, additional Treatment Control BMPs at the site will be necessary.

19. Section 7.II-3.2, Pages 6-7 states in the second paragraph, the basis for inclusion of pollutants for which site design and source/treatment controls should be designed. Much of future development/redevelopment in Orange County will be on converted farmland which may contain legacy pesticides as well as currently applied pesticides and fertilizers. These concerns must be addressed in site design and source/treatment controls as appropriate.

Section 3.2.1 lists nine general categories of pollutants. The purpose of this section is not clear, the majority of this appendix are very specific requirements and appear to be written at a level where it is assumed that the reader has a relatively high level of prior knowledge. This section of pollutant category descriptions contains significant generalizations, example lists with glaring deletions and serious understatements. If these descriptions are to remain in this document, they need to be edited and augmented to a level equivalent to the rest of the appendix.

20. Section 7.II-3.2.3, Page 8 details the procedure for identifying pollutants of concern. When looking at receiving waters, applicants absolutely need to also look at all downstream waters right to the ocean, if that's the ultimate receiving water for site runoff.

It is not clear why the existence of a primary pollutant of concern, that is a pollutant potentially discharged from the site that is also a pollutant causing an impairment of a receiving water, precludes other pollutants that the site might discharge from being considered a secondary pollutant of concern. All sites that have one or more primary pollutants of concern, with very few exceptions, will have numerous secondary pollutants of concern. The lack of an impairment for a specific pollutant does not guarantee that that pollutant is not causing a problem or won't cause a problem once a watershed builds out.

A statement in this section indicates that the CEQA analysis of the project should be used to supplement or supercede the information in Table 7.II.2. This statement should be expanded and clarified as to under what circumstances CEQA analysis would supercede Table 7.II.2. To date, CEQA documentation for most sites has not been pollutant specific and it should take a very convincing argument in the CEQA documents to remove a potential pollutant usually associated with a land use type.

21. Table 7.II-2, Page 9 denotes anticipated pollutant types based on land use types. The P(1) designation for sediments from commercial sites and parking lots should be changed to anticipated X as it will occur whether the site or lot is landscaped or bare soil. The 'P(5)' and blank for Pesticides for Commercial sites and Streets should both be 'X'. The footnote 5, that refers to solvents seems to be a typo and probably should have been a footnote 1, but since herbicides are applied to bare soil to control weeds, the existence or absence of landscaping is not an issue.

22. Table 7.II-3, Page 10 is a summary of the 1998 303(d) list; however, toxicity and turbidity in storm water runoff and non-storm water runoff and selenium in non-storm water runoff is not addressed in this table. Second, a mechanism for 303(d) list updates must be established, both for newly identified impairments and to address meeting TMDL allocations for urban runoff in waters that now have a TMDL and has been removed from the 303(d) list.

23. Section 7.II-3.2.4, Pages 11-12 states, at the beginning of the second paragraph, "A change to a priority project site's hydrologic regime would be considered a condition of concern if the change would have a significant impact on downstream natural channels and habitat integrity." This statement and the steps that follow, totally ignore the cumulative effects of build-out in a watershed. History shows us that the riparian habitat in a watershed can be heavily impacted even though no one, single project has a 'significant' effect by itself. The municipal permittee must consider cumulative effects the probable upstream build-out when evaluating whether the project will contribute to habitat impacts or erosion effects in all downstream waters.

Finally, the last sentence states “Under such conditions alternative BMPs (such as flow-based BMPs) or other approaches may need to be considered.” This statement needs to be clarified to provide limits on the ‘other approaches’, possibly by tying it back to the permit requirements in Section XXII.B.2 of the Permit.

24. Section 7.II-3.3, Page 12, refers to Treatment Control BMP waivers in the second paragraph. There should be a reference to the section describing waivers in Section 7.II-6.0. The sentence following the waiver statement should be changed as follows: “BMPs must also achieve the certain performance standards set out in Section 3.3.4.” The final sentence in this paragraph states that where routine non-structural BMPs are part of the Municipal Activities Program, they will not be required to be included in the WQMPs for Public Agency projects. It would assist in the evaluation of a Public Agency project WQMP, if it is a stand-alone document and thus these routine non-structural BMPs should be included in the WQMPs even if this results in duplication.

25. Section 7.II-3.3.1, Page 13 describes Site Design BMPs and the last paragraph on the page states “Such Site Design BMPs may reduce the size **or need** for Source Control and/or Treatment Control BMPs [emphasis added].” While it may be true that the proper design of a site may reduce the size of Source Control and/or Treatment Control BMPs, it is highly unlikely that it will eliminate the need for these controls.

The final sentence in that paragraph refers to Source Control BMPs and does not belong in this section.

26. Section 7.11-3.3.1, Pages 14-16 states in the first paragraph of Design Concept 1, “A reduction in the stormwater runoff from a development project should yield a corresponding reduction in the amount of runoff and pollutants ...”. This sentence should be deleted as the first conclusion is redundant and the second is not necessarily true. Depending on the pollutant and the nature of the control reducing runoff, it may be that a highly soluble pollutant removed by a first flush diversion BMP would result in a much greater ratio of pollutant removal to runoff removal. However, in the case where a pollutant transported by the first flush is not removed from the system, it can be re-mobilized later in a storm event in which case the ratio of pollutant removal to runoff removal will be much lower.

The next paragraph states “The following site design options shall be considered and incorporated where applicable and feasible...”. It is not clear from this statement, who will be making the decision as to what’s applicable and feasible. Again, it is the municipal permittee’s responsibility to ensure that Site Design and Source and Treatment Control BMPs are implemented to the BAT/BCT benchmark by project proponents. Therefore project applicants should be clearly demonstrating the inapplicability or unfeasibility of Site Design BMPs such that municipal permittees can make decisions that can be justified.

The first site design option of Design Concept 1, begins “Minimize impervious footprint.” This should be changed to “Maximize permeable areas.” While this may seem a matter of semantics, the former statement does not address the situation where minimizing the

impervious footprint results in a decrease in acreage used for the project, allowing an increase in the density of projects, thus nullifying much of the environmental advantages gained.

The second site design option of Design Concept 1, is incomplete and does not offer justification for the ranking system set forth. Ephemeral and perennial stream beds are not included; the details describing the category “Occupied habitat of sensitive species” is not present; the reason all other upland communities are more sensitive than coastal scrub communities is not present; and, the justification for stating that hillside areas are more sensitive than areas of the same category is not present.

The first paragraph of Design Concept 2 again uses the phrase “applicable and feasible” without identifying the parties making this decision. Please refer to the second paragraph of this comment (Comment 26).

27. Section 7.II-3.3.2, Pages 18-20, describes Routine Non-Structural Source Control BMPs. Many of these BMPs were identified in previous versions of the Drainage Area Management Plan (DAMP) and over the past ten (10) years, projects preparing WQMPs have certified that these BMPs would be implemented where ‘applicable’. To be effective, these BMPs must be performed on a regular basis, by trained personnel. To ensure compliance, the municipal permittees must have established mechanisms for the inspection of private development BMPs and established enforcement procedures. Do those inspection and enforcement procedures exist and how have they been utilized in the past to ensure that the permittee’s requirements, as set forth in the DAMP and individual WQMP, are met?

Please provide examples of BMP N2, Activity Restrictions.

For BMP N9, Hazardous Materials Disclosure Compliance, should identify that the local health care agencies are typically responsible for enforcing hazardous waste handling and disposal.

BMP N12, Employee Training appears unrealistic. As this BMP was identified in the 1993 Drainage Area Management Plan, please identify how this BMP has been implemented in the past by any projects that have certified in their WQMP that they would implement this BMP and how the permittees have determined compliance with this requirement.

BMP N13, Housekeeping of Loading Docks, should state that loading dock wash-down water is not to be discharged to the street or local storm drain system. It can be treated and used on site, hauled away (under such permit as is necessary) or discharged to the sanitary sewer (with sanitation district’s approval). Further, “... a regular program of sweeping...” should be better defined.

BMP N14, Common Area Catch Basin Inspection, should state a prescribed cleaning regimen rather than stating that catch basins be cleaned prior to October 15th each year, “if necessary.” The judgement call as to whether a catch basin needs cleaning would have to be made on the basis of pollutant reduction as well as the more traditional hydraulic capability. In addition, depending on the design of the catch basin, even if the catch basin is not ‘full’ of debris, a

significant storm event can mobilize whatever debris is in the catch basin, transporting it into the downstream receiving water(s). There is no reason why the catch basins identified with BMP N14, should be cleaned out at a different frequency than the catch basins cleaned by the municipal permittees. Therefore, the frequency denoted in Section XIV.6 & 7 of the MS4 Permit should be repeated as the standard for BMP N14.

BMP N15, Street Sweeping Private Streets and Parking Lots states that these facilities are to be swept by October 15th of every year. Unfortunately, a sweeping at the end of every April would comply with this instruction but being so soon after winter rains, would not remove a significant amount of pollutants. In order to maximize pollutant removal from these facilities, a time window (e.g., facilities must be swept at least once between September 1 – October 15) should be established to ensure that the sweeping collects the majority of the dry season's deposition of pollutants.

BMP N16, Commercial Vehicle Washing should be rewritten to indicate that the discharge of non-residential, car washing water is a violation of the Federal Clean Water Act, the State's Clean Water Code and local water quality ordinances.

28. Section 7.II-3.3.2, Pages 20-23 describe Routine Structural Source Control BMPs. As with Routine Non-Structural Source Control BMPs, inspection and enforcement by the municipal permittees in the case of non-compliance is critical to the effectiveness of these BMPs. Again, to ensure compliance, the municipal permittees must have established mechanisms for the inspection of private development BMPs and established enforcement procedures. Do those inspection and enforcement procedures exist and how have they been utilized in the past to ensure that the permittee's requirements, as set forth in the DAMP and project owner's requirements, as set forth in the individual WQMP, are met?

Provide Storm Drain System Stenciling and Signage states that stencil and sign legibility must be maintained. Responsible parties for long term maintenance must be identified.

Design Outdoor Material Storage Areas to Reduce Pollutant Introduction should state that when storm water is captured in secondary containment structures, it should not be discharged to the street or storm drain system and the roof or awning over the storage area should be designed to eliminate the introduction of direct precipitation instead of "minimizing" it.

Design Trash Storage Areas to Reduce Pollutant Introduction should again, have a roof or awning to eliminate, not "minimize", direct precipitation.

Use Efficient Irrigation Systems and Landscape Design, Method 7 should replace wood bark with shredded wood products as wood bark floats and is easily transported by light to moderate storm water flows.

Protect Slopes and Channels, Design Principles 4 and 7 use the phrase "as quickly as possible" as a time frame for stabilizing disturbed slopes and channel crossings. This use of ambiguous language will ultimately result in excessive amounts of erosion and the resulting discharge of

sediment. In the case of disturbed slopes, a time limit should be set for protection of finished slopes and for the amount of time an unfinished or 'active' slope can remain unworked before temporary protection is required. Finally, this section should state that when there is a greater than 40% chance of rain, all disturbed slopes must be protected through an effective combination of sediment and erosion controls.

29. Section 7.II-3.3.2, Pages 24 contains Table 7.II-4 indicates that hillside landscaping is required for the Priority Project Category "Detached Residential Development", however no such requirement exists for "Attached Residential Development" or "Commercial/Industrial Development >100,000 ft²". Erosion from non-landscaped hillsides will occur regardless of the use of the property.

30. Section 7.II-3.3.2, Pages 24-27 includes requirements to be included in individual projects, as applicable. All of these individual project categories include the option of "Other features which are comparable or equally effective." This phrase is too open to misinterpretation. In each case, the appropriate restrictions should be added, e.g., "This discharge cannot enter the municipal storm drain system, regardless of treatment level without the appropriate permits", etc. Individual project categories follow.

Loading Dock Areas, Item 2 refers to "depressed loading docks" and Item 3 refers to "below grade loading docks". If these are the same then similar language should be used, if they are different then they should be better differentiated. Item 2 prohibits "direct connections" from depressed loading docks to the municipal storm drain system without defining "direct connection" and without listing allowable alternatives. Also, in Item 3, it is not clear why the requirement to drain through water quality inlets or to an engineered infiltration system is limited to fresh food warehousing and distribution, when the discharge of accumulated loading dock water from those facilities handling metals and/or chemicals may present a higher risk.

Maintenance Bays, Item 2 states that drains should be connected to a sump for collection and disposal. It should be pointed out that disposal to the municipal storm drain system is prohibited and list allowed alternatives. As in Item 2 in Loading Dock Areas, the term "direct connection" is vague and no alternatives are listed. Finally in Item 2, if discharge from maintenance/repair bays is prohibited from discharging to the municipal storm drain system, as seems to be indicated, why would a "permit to ensure clean stormwater discharges" from the local jurisdiction be required?

Vehicle Wash Areas, Item 4 requires these areas be properly connected to a sanitary sewer. Please include in this and all other references to "connecting to a sanitary sewer" that permission of the local sanitation district is required, prior to connection.

Outdoor Processing Areas mentions "landfills, waste piles, and wastewater and solid waste handling, treatment, and other disposal". These operations will likely require significant other BMPs and fall under other permitting authorities, which should be mentioned here. Item 1 restricts covering or enclosing areas to those areas that "would be the most significant source of pollutants. That restriction is unnecessary and may result in significant discharge of pollutants

from areas that are significant sources of pollutants, but are not “the most” significant source. The first sentence of Item 1 should be changed to “Cover or enclose areas that may be sources of pollutants; ...”. Item 1 later offers the alternative that “slope the area toward a dead-end sump”. It should be noted that discharge of the collected drainage in the sump, to the municipal storm drain system is prohibited and provide approved methods of disposal. Finally, Item 5 discusses secondary containment structures for wet material processing areas. It should be noted that these areas should be covered and properly paved, as in the section describing Design of Outdoor Material Storage Areas to Reduce Pollutant Introduction, on Page 7-II-21.

Equipment Wash Areas, Item 1 states that these areas be self-contained or covered. It is recommended that these areas be both self-contained and covered, or at the very least if not covered that the system has enough capacity to contain the run-on from a 25-year storm, beyond the maximum operating level. That is, commingled wash water and storm water must not be discharged to the municipal storm drain system. Item 2 refers to pretreatment facilities without identifying the ultimate disposal method, although Item 3 refers to connection to the sanitary sewer. Again, permission of the local sanitation district is required prior to connection and they will indicate the pretreatment requirements and it should be pointed out that discharge of equipment wash water to the municipal storm drain system, even if commingled with storm water run-on/runoff, is prohibited.

Fueling Areas should require the presence of spill kits, discharge detection and alarm systems and emergency/automatic shutoff devices.

Wash Water Controls for Food Preparation Areas should require the presence of signage indicating that discharge of wash water to the municipal storm drain system is prohibited.

Community Car Wash Racks should require the presence of signage indicating that discharge of wash water to the municipal storm drain system and discharge of vehicle fluids, such as oil or anti-freeze and degreasing products to the wash rack are prohibited.

31. Section 7.II-3.3.3 Selection of Regional or Project-Based Approach to Treatment Control BMPs, Page 28, the final sentence of the second bullet should read, “The water quality design storm runoff volume or flow obligation ... reduced based on the incorporation of Site Design BMPs that offset treatment requirements for pollutants of concern.” The second sentence in the fourth bullet should read, “Where it is determined by the permittee, that on-site facilities are necessary, each Permittee would either define the performance standards to be consistent with this Model WQMP or more stringent ~~define special standards through ordinances or policies~~.”

The fourth bullet states “Where it is determined that on-site facilities are necessary...”. As noted in Comment 25, it is unlikely that the use of regional treatment controls will address all pollutants of concern, eliminating the need for

The fourth bullet states “Where it is determined that on-site facilities are necessary...”. As noted in Comment 25, it is unlikely that the use of regional treatment controls will address all pollutants of concern, eliminating the need for any on-site treatment controls.

32. Section 7.II-3.3.3 Selection of Regional or Project-Based Approach to Treatment Control BMPs, Pages 29 - 30, the first set of bullets identifies performance criteria for regional or watershed management programs. It should be noted that many of the regional treatment control BMPs are relatively new technologies, without: scientifically established efficiencies for most pollutants; clearly understood process parameters such that the effect of design variables on performance is known; and knowledge of the long term stability and/or long term effects of operation. Until the processes and effectiveness of these BMPs are better understood, monitoring of these BMPs will need to be conducted. The following need to be identified in this section: minimum monitoring requirements; the identification of long-term responsible parties; and the actions that will be taken should long-term regional or watershed BMPs fail to function as required.

The second paragraph under Cost, states “However, this type of alternative should be reviewed by the Orange County Flood Control District...”. While it may be clear to the permittees, it should also be noted that Army Corps of Engineer and the appropriate Regional Water Quality Control Board should be contacted to address 401/404 issues and the California Department of Fish & Game should be contacted to address streambed alteration issues.

33. Section 7.II-3.3.3 Selection of Regional or Project-Based Approach to Treatment Control BMPs, Pages 31- 33, the first paragraph under Quantity Design Standard for Treatment Control BMPs states that all Priority Projects will implement Treatment Control BMPs unless they meet the limited exclusions at the end of the section or are participating in an acceptable regional or watershed management program. It should be noted that participation in a regional or watershed treatment BMP will not eliminate the need for on-site Treatment Control BMPs, unless that regional or watershed treatment BMP address all pollutants of concern to the extent required by the MS4 Permit, additional on-site Treatment Control BMPs will should be required.

The first paragraph ends with the statement “Permittees may choose to eliminate one or more of the numeric sizing methods listed below in their local WQMP.” There indication within this section as to why this should be an option and should the permittees chose to limit the sizing methods in their local WQMP or Local Implementation Plan (LIP), clear justification will need to be presented for those WQMP or LIPs to be accepted by the Regional Board.

The first item under Stormwater Quality Design Volume (SQDV) lists an approximate average volume of runoff in Orange County as 0.8”. The MS4 Permit specifically requires the use of ‘local’ historical rainfall in determining this volume. An average amount will not accurately represent coastal areas, inland valleys and inland mountains and should not be included.

The second item under Limited Exclusions, referring to significant redevelopment that results in an increase of less than 50 percent, was not a condition set forth in the MS4 Permit and should be deleted.

34. Section 7.II-3.3.3 Selection of Regional or Project-Based Approach to Treatment Control BMPs, Pages 34- 35, the second paragraph in item 1 under Selection of Treatment Control BMPs, state “Any pollutants identified by Table 7.11-3, which are also causing a Clean Water Act section 303(d) impairment...”. It is likely that the sentence should be listing Table 7.II-2, as Table 7.II-3 is the 303(d) list of impaired waters.

The last paragraph in item 1 states that a more refined CEQA analysis shows that a project will not have a significant impact on a receiving water and that the project won’t cause further exceedance of water quality objectives for an impairing pollutant, then general Treatment Control BMPs can be used instead of those designed to control the impairing pollutant. This paragraph should be deleted. First, a normal CEQA analysis does not look at the contribution or effects of single pollutants and more importantly, even if a project does not significantly impact a receiving water, it is the cumulative impact of all projects in a watershed that results in most impairments.

Item 2 of these sections states “Priority Projects that are not anticipated to generate a primary pollutant of concern shall meet applicable standard requirements, and shall select a single or combination of stormwater Treatment Control BMPs...”. First, Priority Projects are required to implement Treatment Control BMPs that address both primary and secondary pollutants. Second, it is not clear who is assuming the responsibility for the decision the project is not “anticipated” to generate pollutants of concern.

Under Locate Treatment Control BMPs Near Pollutant Sources, item 1 states that BMPs should be placed to treat volume or flow prior to discharge to “... any receiving water body supporting beneficial uses.” Understand that not all waters supporting beneficial uses are specifically listed in the Regional Board Basin Plan. It is not clear what will be the standard for meeting the criteria of “beneficial use support.”

Table 7-II-6 is missing some pollutants of concern including toxicity and turbidity. These should be added.

35. Section 7.II-4.0 Non-Priority Projects, Page 39, the final paragraph of this section states that all new development and significant redevelopment projects shall implement Site Design BMPs where determined applicable and feasible. As with previous comments regarding the use of “applicable and feasible”, the document fails to identify the party responsible for making that determination

36. Section 7.II-6.0 Waiver of Structural Treatment BMP Requirements, Page 41, the last sentence of the first paragraph should be revised as follows: “Permittees shall notify the

Executive Officer of the appropriate Regional Board by Certified Mail (with Return Receipt) within five (5) days of each waiver issued and shall include a copy of the waiver documentation, the name of the person granting each waiver and a copy of the project's WQMP."

The last sentence of the second paragraph references the benchmark of "maximum extent practicable". As before (see Comment 11), the benchmark for private construction and industrial activities is best available technology, economically achievable (BAT) and best conventional pollutant control technology (BCT).

The third paragraph in this section requires the Permittees to review a project's CEQA documentation to identify any significant unmitigatable impacts. It should be stated here that Permittees should also review the CEQA documentation for non-significant impacts that cumulatively, with other current and future projects in the watershed, may result in a significant impact.

37. Attachment A, Page 45, the first paragraph states "There is marginal water quality benefit gained by sizing treatment facilities to handle flows or volumes greater than the ones generated by small events." This statement is wholly untrue for some pollutants and should be deleted. For example, sediment loading to receiving waters from both disturbed and undisturbed open spaces for the one 10-year storm is equal to or significantly more than the loading from the more frequent small events.

38. Attachment A, Pages 48-49 again associates the "24-hour 85th percentile storm event, as determined from the local historical rainfall [emphasis added]" with the value of 0.8 inches as the approximate average for Orange County (see Comment 33). Even in the example project, where the hypothetical project setting is Irvine, instead of using actual data, for example data from the rain gauge at Culver and San Diego Creek, the example defaults to 0.8 inches with no justification for not using actual local historical rainfall data.

39. Attachment E, Pages 95-98 has some formatting errors on the first page.

"Infeasibility Waiver" definition should be expanded to include Regional Board Executive Officer review.

"Receiving Waters" definition cannot be limited to those waters that receive discharges "from municipal storm drain systems." It must be expanded to also include those waters that receive discharges from development within a jurisdiction, whether or not it passes through an MS4. The second-to-last sentence deletes constructed wetlands from this definition of "Receiving Waters", unless the wetland was specifically constructed as mitigation for habitat loss. It is not clear that this deletion is not over-reaching. While the intent of this statement may be to exclude 'treatment' wetlands constructed in areas where natural waters did not previously occur, it appears that it could be interpreted to include constructed wetlands that were not specifically part of a mitigation for habitat loss. Finally, the intent of the last sentence in this definition is unclear and it should be expanded or deleted.

“Significant Redevelopment” should include new sidewalk or bike lane construction where it results in the creation or addition of at least 5,000 square feet of impervious surfaces on an already developed site.

We appreciate your efforts in developing this important document. The model WQMP should provide useful and specific criteria to help ensure that when properly implemented, threats to water quality from new development and significant redevelopment are addressed. Please contact Marc Brown at 909-321-4584 or email: mbrown@rb8.swrcb.ca.gov if you have any questions regarding these comments.

Respectfully,



Mark E. Smythe, Chief
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cc:

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