

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

PROOF OF SERVICE

I am over 18 years of age, not a party to this action and employed in San Francisco, California at Three Embarcadero Center, San Francisco, California 94111-4067.

I am readily familiar with the practice of this office for collection and processing of correspondence for next business day delivery by Federal Express, and correspondence is deposited with Federal Express that same day in the ordinary course of business.

Today I served the attached:

PETITION FOR REVIEW
(Re: COUNTY OF ORANGE AND ORANGE COUNTY FLOOD CONTROL DISTRICT FOR REVIEW OF ACTION BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION, IN ADOPTING ORDER NO. R8-2009-0030, NPDES PERMIT NO. CAS618030)

by causing a true and correct copy of the above to be delivered by Federal Express from San Francisco, California in sealed envelope(s) with all fees prepaid, addressed as follows:

State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
1001 "I" Street, 22nd Floor
Sacramento, CA 95814

Mr. Gerard J. Thibeault
Executive Officer
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3346

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 22, 2009.



Connie L. Noble

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Exhibit A

**State of California
California Regional Water Quality Control Board
Santa Ana Region**

**ORDER NO. R8-2009-0030
NPDES No. CAS618030**

**Waste Discharge Requirements
for
the County of Orange, Orange County Flood Control District
and
The Incorporated Cities of Orange County within the Santa Ana Region
Areawide Urban Storm Water Runoff
Orange County**

FINDINGS

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board) finds that:

A. REGULATORY BASIS

1. The 1987 amendments to the Clean Water Act (CWA) added Section 402(p) (USC §1342(p)) establishing a framework for regulating municipal and industrial (including construction) storm water discharges under the National Pollutant Discharge Elimination System (NPDES) permit. Section 402(p) of the CWA requires NPDES permits for storm water discharges from municipal separate storm sewer systems¹ (storm drains or MS4s) as well as other designated storm water discharges that are considered significant contributors of pollutants to waters of the United States (waters of the US). On November 16, 1990, the United States Environmental Protection Agency (hereinafter EPA) amended its NPDES permit regulations to include permit application requirements for storm water discharges. These regulations are codified in Code of Federal Regulations, Title 40, Parts 122, 123 and 124 (40 CFR Parts 122, 123 & 124).
2. This order is based on Section 402(p) of the CWA; 40 CFR Parts 122, 123, and 124; Porter-Cologne Water Quality Control Act (Division 7 of the California Water Code or CWC, commencing with Section 13000); all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (State Board); the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan); the California Toxics Rule (CTR); and the California Toxics Rule Implementation Plan. A revised Basin Plan was adopted by the Regional Board and became effective on January 24, 1995. The Basin Plan contains water quality objectives and beneficial uses for water bodies in the Santa Ana Region. Under the CWA, the beneficial uses and the water quality objectives to protect those beneficial uses are collectively referred to as water quality standards. The Basin Plan also incorporates by reference all State Board water quality control

¹ A municipal separate storm sewer **system** (MS4) is any conveyance or a system of conveyances designed to collect and/or transport storm water, such as, storm drains, manmade channels, ditches, roads w/drainage systems, catch basins, curbs, gutters, etc., which is not part of a Publicly Owned Treatment Works (i.e., not a combined sewer).

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- plans and policies, including the 1990 Water Quality Control Plan for Ocean Waters of California (Ocean Plan).
3. The requirements contained in this order are necessary to protect water quality standards of the receiving waters and to implement the plans and policies described in the above finding. These plans and policies contain numeric and narrative water quality standards for the water bodies in this Region. In accordance with Section 402(p)(2)(B)(iii) of CWA and its implementing regulations, this order requires the permittees to develop and implement programs and policies necessary to reduce the discharge of pollutants in urban storm water runoff to waters of the US to the maximum extent practicable (MEP)². The legislative history and the preamble to the federal storm water regulations (40 CFR Parts 122, 123 and 124) indicate that the Congress and the EPA were aware of the difficulties in regulating urban storm water runoff solely through traditional end-of-pipe treatment. Consistent with the CWA, it is the Regional Board's intent that this order require the implementation of best management practices (BMPs)³ to reduce to the maximum extent practicable, the discharge of pollutants in urban storm water from the MS4s in order to support attainment of water quality standards. This order, therefore, includes Receiving Water Limitations⁴ based upon water quality objectives, and requires implementation of control measures to protect the beneficial uses. It also prohibits the creation of nuisance and requires the reduction of water quality impairment in receiving waters with an ultimate goal of achieving water quality objectives of the receiving waters.
 4. This order is consistent with recent court decisions and precedential orders adopted by the State Board related to municipal storm water NPDES permits. These precedential State Board orders include: Orders No. 99-05, WQ 2001-15 and WQO 2002-0014.
 5. This order does not constitute an unfunded mandate subject to subvention under Article XIII.B, Section (6) of the California Constitution for several reasons, including the following:
 - a) This order implements federally mandated requirements under Clean Water Act Section 402(p)(3)(B). (33 USC § 1342(p)(3)(B)).

² MEP is not defined in the CWA; it refers to management practices, control techniques, and system, design and engineering methods for the control of pollutants taking into account considerations of synergistic, additive, and competing factors, including, but not limited to, gravity of the problem, technical feasibility, fiscal feasibility, public health risks, societal concerns, and social benefits.

³ Best Management Practices (BMPs) are programs and policies, including structural controls where appropriate, that are implemented to control the discharge of pollutants.

⁴ Receiving Water Limitations are requirements included in the orders issued by the Regional Board to assure that the regulated discharge does not violate water quality standards established in the Basin Plan at the point of discharge to waters of the US or the State.