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COUNTY OF SONOMA

7  
8 **BEFORE THE**  
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

10 In the Matter of the County of Sonoma's Petition  
11 for Review of Action and Failure to Act by the  
California Regional Water Quality Control Board,  
12 North Coast Region, in Adopting Order No. R1-  
13 2009-0050, NPDES Permit No. CA0025054,  
14 WDID No. 1B96074SSON and Waste Discharge  
Requirements for the City of Santa Rosa, the  
15 County of Sonoma, and the Sonoma County Water  
16 Agency.

**PETITION FOR REVIEW;  
PRELIMINARY POINTS AND  
AUTHORITIES IN SUPPORT  
OF PETITION (WATER CODE  
§ 13320)**

17  
18  
19 **INTRODUCTION**

20 Petitioner County of Sonoma (County) is a leader in the North Coast Region in  
21 protecting water quality. Sonoma is the only county in the North Coast Region subject to a  
22 Phase I National Pollution Discharge Elimination System (NPDES) permit, because the City  
23 of Santa Rosa has a population exceeding 100,000 and contains "islands" of County  
24 jurisdiction. This is the only Phase I permit in the entire North Coast Region; although many  
25 cities in the region have larger urban centers and larger populations than any in the  
26 unincorporated County, they are all regulated under Phase II rather than Phase I permits. The  
27 County is in compliance with its current permit, and has never been cited for one single  
28 violation in all its years as an NPDES permittee.

1           The County also goes above and beyond even its unique Phase I permit. The County  
2 has adopted and implements a comprehensive grading, drainage, and vineyard and orchard  
3 site development ordinance that addresses even post-construction erosion and storm water  
4 impacts of all projects in the County, including agricultural development that is exempt from  
5 the Clean Water Act. The County further protects water quality by prohibiting development  
6 in the floodway and ensuring development does not adversely affect the flood carrying  
7 capacity of the floodplains. The County also conducts spill response activities, funds  
8 additional street sweeping, runs a local oversight program for underground storage tanks,  
9 regulates on-site wastewater disposal systems, and conducts hazardous material collection  
10 and disposal programs. These efforts, which cost the County approximately \$1.9 million per  
11 year, exceed anything being done elsewhere in the North Coast Region.

12           In exchange, the County has only ever asked that it be treated as a partner in  
13 protecting water quality, rather than a discharger to be tightly regulated by the Regional  
14 Board for the North Coast Region (Regional Board). The County has consistently sought to  
15 work collaboratively with the Regional Board to identify and implement programs and  
16 measures that provide the greatest water quality and environmental benefits while limiting  
17 unnecessary costs to County taxpayers.

18           In September 2008 the Regional Board proposed a six-fold expansion of the boundary  
19 of the current Phase I permit to cover the entire County within the Regional Board's  
20 jurisdiction. The expansion would require the County to greatly expand its NPDES permit  
21 activities such as regulating and inspecting even the most rural sites, including those that do  
22 not drain to the County's municipal storm sewer systems (MS4s) at all, and are solely within  
23 the Regional Board's jurisdiction. The County protested these and other amendments  
24 proposed by the Regional Board, which appeared unsupported by law and would cost the  
25 County as much as \$5 million dollars per year to implement.

26           In 2009 the Regional Board issued a second draft that, to the Regional Board's credit,  
27 included numerous positive changes, including a proposal to retain the current permit  
28 boundary if the County would agree to execute a separate, negotiated agreement addressing

1 illicit discharges, non-storm water discharges, post-construction treatment controls, and  
2 public agency activities outside the permit boundary. But the Regional Board still insisted  
3 that the permit include the several areas with tiny urban populations, including Graton  
4 (approximately 1,500 people); outside Healdsburg (approximately 1,500); outside Windsor  
5 (approximately 2,000); and Larkfield/Wikiup (approximately 7,500). These populations do  
6 not trigger a Phase I permit under the Clean Water Act or its implementing regulations, and  
7 the Regional Board presented no specific, local evidence that they qualified for any other  
8 reason. The County therefore protested these and other provisions of the second draft.

9       The Regional Board did not issue the proposed final permit until one week before the  
10 scheduled October 1 hearing on the matter. The third draft included a whopping 71 pages of  
11 revisions, many of which either failed to address the County's concerns or raised entirely  
12 new problems. Then, the evening before the hearing, Regional Board issued another 18  
13 pages of additional revisions, several of which raised significant new concerns. The  
14 Regional Board then proposed still further, new revisions at the start of the October 1  
15 hearing.

16       The County did its best to evaluate and discuss these last minute changes in its written  
17 comments and oral testimony before the Regional Board. Unfortunately, staff and the  
18 Regional Board refused all requests for a continuance or additional time, and denied all but  
19 one of the County's proposed changes. Instead, relying in part of erroneous testimony from  
20 its staff, the Regional Board approved the permit.

21       As a result, in accordance with Water Code § 13320, the County hereby petitions the  
22 State Water Resources Control Board (State Board) to review Order No. R1-2009-0050,  
23 reissuing NPDES Permit No. CA0025054, WDID No. 1B96074SSON (Permit) and Waste  
24 Discharge Requirements for the City of Santa Rosa, County of Sonoma, and Sonoma County  
25 Water Agency. A copy of Order No. R1-2009-0050, adopted on October 1, 2009, is attached  
26 to this Petition as **Exhibit A**. The issues and a summary of the basis for the Petition follow.  
27 At such time as the full administrative record is available and any other material has been  
28 submitted, the County reserves the right to file a more detailed memorandum in support of

1 the Petition and/or in reply to the Regional Board's response.

2

3 **1. NAME, ADDRESS, TELEPHONE, AND E-MAIL FOR PETITIONER.**

4 County of Sonoma  
5 Attn: Jeff Brax, Deputy County Counsel  
6 Office of the Sonoma County Counsel  
7 575 Administration Drive, Room 105A  
8 Santa Rosa, CA 95403

7

8 **2. THE SPECIFIC ACTION OF THE REGIONAL BOARD THAT THE STATE IS REQUESTED TO REVIEW.**

9 The County seeks review of Order No. R1-2009-0050, reissuing NPDES Permit No.  
10 CA0025054, WDID No. 1B96074SSON.

11

12 **3. THE DATE ON WHICH THE REGIONAL BOARD ACTED.**

13 The Regional Board issued the Order on October 1, 2009.

14

15 **4. A STATEMENT OF THE REASONS THE ACTION WAS INAPPROPRIATE OR IMPROPER.**

16

17 **A. The Regional Board Inappropriately Included Areas Outside the City of Santa Rosa Within the Permit Boundary.**

18 As noted above, the Regional Board included within the permit areas that do not come  
19 close meeting the population trigger stated in the Clean Water Act and its implementing  
20 regulations for inclusion in a Phase I permit. The Regional Board drew the permit boundary  
21 to include the communities of Graton and the area outside Healdsburg, each of which has a  
22 population of approximately 1,500; the area outside Windsor (approximately 2,000); and  
23 Larkfield/Wikiup (approximately 7,500). The Regional Board even extended the permit  
24 boundary all the way east to the Napa County line, despite the complete lack of urbanization  
25 in that area.

26

27 The Regional Board cited a variety of purported justifications for the inclusion of  
28 these areas, including an allegation that County MS4s in each area contribute to a violation  
of a water quality standard or are a significant contributor of pollutants to water of the United

1 States. But a close read of the Permit, Fact Sheet, and remainder of the administrative record  
2 reveals no specific, local evidence that County MS4s are making any such contribution to a  
3 water quality violation or making a significant contribution of pollutants. Instead, in the final  
4 administrative record the Regional Board noted only that waterways in these areas are  
5 impaired for sediment and temperature, and that the Nationwide Urban Runoff Program and  
6 other national studies have concluded that urbanization can contribute sediment and increase  
7 temperature.

8         These facts do not constitute substantial evidence that the particular, County MS4s  
9 targeted by the Regional Board are contributing to the identified impairments or making a  
10 significant contribution to sediment or temperature problems. Many waterways in the North  
11 Coast Region are impaired for sediment and temperature, yet, as noted above, no other  
12 municipality is subject to a Phase I permit. Indeed, the incorporated cities of Healdsburg,  
13 Windsor, Sebastopol, Rohnert Park, and Cotati all have much larger populations than the  
14 unincorporated areas included in the permit, and similarly drain to the same impaired water  
15 bodies identified by the Regional Board, yet are governed by Phase II rather than Phase I  
16 permits. Moreover, the fact that urbanization can contribute to sediment and temperature  
17 impairments nationwide provides no evidence at all that the tiny urban areas included here  
18 are making a significant contribution to any impairment—much less that County MS4s are  
19 responsible for the pollution.

20         Regional Board staff thus moved away from this justification on October 1, and  
21 instead argued that excluding these areas from the permit would constitute “backsliding” or  
22 risk a violation of antidegradation regulations. That claim is unavailing. The inclusion of  
23 specific areas in a Phase I permit is a threshold question of jurisdiction to which  
24 “backsliding” and antidegradation concerns do not apply. If the identified areas do not meet  
25 a Clean Water Act trigger for inclusion in a Phase I permit, they may not be included. The  
26 plain language of the Clean Water Act and its implementing regulations control on this  
27 threshold question of jurisdiction, and the Permit should be revised accordingly

28 ///

1           **B. The Regional Board Improperly Threatened Further Expansion of the**  
2           **Permit Boundary Absent Implementation of a "Regulatory" Mechanism**  
3           **Applicable to Non-Point Sources.**

4           As noted above, in the second draft of the proposed permit, the Regional Board agreed  
5 not to implement its threatened six-fold expansion of the permit boundary contingent upon  
6 execution of a separate, negotiated agreement addressing illicit discharges, non-storm water  
7 discharges, post-construction treatment controls, and public agency activities. Regional  
8 Board staff advised the County that these measures could be incorporated into a  
9 memorandum of understanding (MOU) or similar agreement, and the two staffs reached  
10 agreement on the substantive provisions of the program. In the third draft of the permit,  
11 however, the Regional Board suddenly refused to allow an MOU, requiring instead a  
12 "regulatory" mechanism such as a Waste Discharge Requirements (WDR) or a waiver of the  
13 same for non-point sources.

14           No substantial evidence supports a preemptive prohibition on an MOU or similar  
15 mechanism between the County and Regional Board. As noted above, the County is in  
16 compliance with its current MS4 permit, has never been cited for a single violation of its  
17 permit, and implements one of the best storm water programs in the North Coast Region.  
18 Moreover, the County already successfully implements two MOUs with the Regional Board:  
19 one regulating underground storage tanks, and one regulating on-site domestic treatment  
20 systems. The County remains proactive in protecting water quality and the environment, and  
21 would implement a further MOU or agreement with the same integrity and record of  
22 compliance. There is no legitimate reason for the Regional Board to single out the County  
23 and preemptively deny the possibility of an MOU.

24           Instead, the relevant law appears to preclude the Regional Board's intended use of a  
25 regulatory mechanism for non-point sources to govern discharges that the Regional Board  
26 has always characterized as point sources. The non-point WDR or waiver proposed by the  
27 Regional Board would not appear to apply to the identified program. The Permit should be  
28 revised to allow the parties to meet in good faith and explore all available options before  
deciding on the best mechanism for implementing the negotiated agreement.

1  
2 **C. The Regional Board Inappropriately Expanded Street Sweeping Requirements, at Substantial Cost to the County.**

3 The second draft of the permit included language at Sections E.9.5(a)(1) and  
4 E.9.5(a)(2) that would require the County to perform street sweeping of curbed streets  
5 subject to high trash generation six times per year, and of curbed streets in residential and  
6 commercial areas at least four times per year. The County rightly protested these provisions,  
7 which would cost several hundred thousand dollars a year without providing a comparable  
8 water quality benefit, and Regional Board staff agreed to modify them. Regional Board staff  
9 specifically agreed to require street sweeping prior to the rainy season and as needed  
10 thereafter, which would maximize effectiveness while minimizing costs.

11 In the late, third draft and before the Regional Board, however, staff failed to revise  
12 the Permit as promised. The final Permit thus includes the onerous street sweeping  
13 provisions, despite their substantial cost and the continuing lack of evidence that they are  
14 warranted or necessary. The permit should be revised to include the language the Regional  
15 Board staff said it would include.

16  
17 **D. The Regional Board Improperly Expanded the Definition of Regulated MS4s.**

18  
19 At the County's suggestion, the final Permit was revised to include a modified Finding  
20 27 that clarifies that the permit does not apply to discharges that are present in waters of the  
21 State before entering a County MS4, such as discharges to "culverts or bridges that are  
22 intended to convey waters of the State under a roadway or structure." However, despite the  
23 County's recommendation that the Regional Board's own language be included in Section A  
24 and the Attachment C definition of MS4, the Regional Board failed to carry this Finding into  
25 the substantive Permit. As a result, the Permit is internally inconsistent, and the County is at  
26 risk of public or citizen suit enforcement for failing to fulfill the Regional Board's duty of  
27 treating waters of the State.

28

1                   **E.     The Regional Board Improperly Required Retrofitting of Commercial**  
2                   **Facilities.**

3                   The second draft of the permit included very broad language in Sections E.3.2(a),  
4 E.3.3(a)(1) and E.3.3(f) that appeared to require the County to mandate the implementation  
5 of additional storm water measures at all commercial facilities within the permit boundary.  
6 The Regional Board corrected some of that language in the final permit, to more precisely  
7 define “critical sources” in Section E.3.2(a) and clarify in Section E.3.1(a)(1) that the County  
8 “may” require additional controls where existing best management practices (BMPs) are not  
9 adequate to achieve water quality standards.

10                  But the Regional Board missed Section E.3.3(f)(2), which continue to state that for  
11 any critical sources that discharge to any impaired water bodies, the County “shall require  
12 operators of facilities identified by the Co-Permittees or Regional Water Board staff to  
13 implement additional controls as needed to reduce pollutants in storm water runoff that may  
14 be causing or contributing to exceedances of WQS.” The Regional Board already  
15 determined at page 25 of its Fact Sheet that “[t]he majority of surface waters of Sonoma  
16 County within North Coast Regional Water Board jurisdiction are impaired for excess  
17 sediment and temperature,” and all critical sources governed by the permit drain to such a  
18 surface water eventually. As a result, the challenged language appears to require that once  
19 the County and Regional Board inventory the relevant critical sources, the County “shall  
20 require” each facility to retrofit with additional storm water controls.

21                  This requirement is massive in size, scope, and cost, and conflicts with the more  
22 reasonable language in Section E.3.1(a)(1). The Permit is thus unclear and inconsistent, and  
23 exposes the County to potentially agency or citizen suit enforcement for failing to retrofit  
24 every critical source within the expansive permit boundary. No evidence or logic supports  
25 this inconsistency, and the permit should be revised to correct it.

26 ///

27 ///

28 ///

1  
2 **F. The Regional Board Impermissibly Made a Last-Minute Change to Prohibit the Use of Underdrains to Control Storm Water Runoff.**

3 The 18 pages of revisions proposed by the Regional Board the night before the  
4 October 1 hearing included a dramatic and completely new set of provisions (at Sections  
5 E.5.2(b)(2)(a) and E.5.2(b)(3)) that would prohibit the use of underdrains as a Low Impact  
6 Development (LID) strategy unless all replacement measures are “technically infeasible,”  
7 and the Regional Board Executive Officer approves each project. At the October 1 hearing,  
8 Regional Board staff defended these new provisions by claiming a need for consistency with  
9 similar provisions adopted elsewhere in the State. Despite having almost no time to review  
10 the new provisions, representatives of the County, City of Santa Rosa, and the building  
11 industry all pointed out that statewide consistency is neither possible nor desirable because  
12 neither geology nor soils are consistent statewide. Unlike the soils in Death Valley, the  
13 Central Valley, northeast California, or elsewhere in the State, Sonoma County has clay-  
14 based soils that do not drain well, and often require underdrains to control storm water and  
15 prevent pollution.

16 Regional Board staff responded by misstating the Permit to the Regional Board,  
17 exacerbating the confusion. Staff incorrectly advised the Board that underdrains would be  
18 permitted if either the Executive Officer approved the project or the County developed  
19 “Feasibility Criteria” to expedite approvals. In fact, Section E.5.2(b)(3) explicitly requires  
20 the County to develop “Feasibility Criteria” in the first instance to determine whether a  
21 project may even consider an underdrain. Assuming a project can ever meet the undefined  
22 “Feasibility Criteria,” Section E.5.2(b)(3) states it can then be approved either by the  
23 Executive Officer on a project-by-project basis, or the County may develop an “adequate  
24 program” such that the Executive Officer “may waive this requirement for advance  
25 approval.”

26 The Permit thus requires the County to first develop “Feasibility Criteria,” a term that  
27 the Permit does not define in any way. Then, the Executive Officer must approve every  
28 single project with an underdrain, or the County may develop an “adequate program” for

1 advance approval—which the Permit again does not define. These requirements are onerous,  
2 unclear, and unsupported by any substantial evidence suggesting they are necessary to protect  
3 water quality.

4 Indeed, Regional Board staff have already acknowledged problems with this last-  
5 minute language. On October 28, 2009, Regional Board staff sent the co-permittees a letter  
6 purporting to “clarify” various provisions of the final Permit, including Section E.5.2(b)(3).  
7 Regional Board staff now state that underdrains “are not approved LID measures where they  
8 interfere with compliance with the treatment and compliance criteria,” but “[w]here BMPs  
9 are installed that can meet the treatment and capture criteria, overflow or bypass drains  
10 (including subsurface drains) are acceptable.” (Letter of Oct. 28, 2009 at p. 2.) This revision  
11 would be welcome if it were included in the actual Permit. But it is not, and a staff letter of  
12 clarification does not bind either the Regional Board or any citizen group seeking to enforce  
13 the plain language of the Permit. The State should remand the Permit to require  
14 consideration of the revision now proposed by staff, and the import of the real language of  
15 Section E.5.2(b)(3).

16  
17  
18 **G. The Regional Board Improperly Prohibited Grading During the Rainy Season.**

19 The second draft of the permit included language that appeared to prohibit all grading  
20 during the rainy season, which contradicts the County’s Grading, Drainage, and Vineyard  
21 and Orchard Site Development Ordinance. In discussions with the County, Regional Board  
22 staff stated their intent to limit this requirement to slopes greater than 20 percent. At the  
23 October 1 hearing, Regional Board staff requested (and the Regional Board approved) a  
24 revision to effectuate this change. Unfortunately, the final Permit fails to implement the  
25 change. Section E.8.2(a) introduces four requirements that shall apply during the wet season,  
26 but nowhere clarifies that they apply only to slopes greater than 20 percent. That limitation  
27 appears in only one of the four requirements, Section E.8.2(a)(1). Subparagraphs (2), (3),  
28 and (4) all appear to apply to all grading in the rainy season.

1 Regional Board staff have already recognized this issue in the Permit, but their  
2 October 28, 2009 letter of clarification states only that "Part 8 - 2(a)(1) establishes a winter  
3 grading restriction program. This language applies only to projects on hillsides with slopes  
4 of 20% or grader." That clarification appears unnecessary—by its own language, Section  
5 E.8.2(a)(1) applies only to slopes greater than 20 percent. The problem is that subparagraphs  
6 (2), (3), and (4) still appear to apply to all grading, and the letter of clarification does not  
7 address them at all. The Permit should be revised to reflect the actual intent of the Regional  
8 Board and co-permittees.

9  
10 **5. HOW THE PETITIONER WAS AGGRIEVED.**

11 The Permit includes requirements, challenged herein, that are unreasonable, contrary  
12 to law, and not supported by the findings and evidence in the administrative record. These  
13 requirements will impose substantial costs on the County at a time of extreme economic  
14 hardship and employee reductions, and could result in penalties and additional costs for non-  
15 compliance with the challenged requirements. The vague language and other issues  
16 identified herein also expose the County to citizen suits and the potential for additional  
17 penalties and costs that the County and its residents cannot afford to bear at this time.

18  
19  
20 **6. THE ACTION THE PETITIONER REQUESTS THE STATE BOARD TO TAKE.**

21 Petitioner seeks an Order by the State Board remanding Order No. R1-2009-0050 and  
22 directing the Regional Board to:

23 A. Revise the Permit boundary to include only the City of Santa Rosa and its  
24 internal County "islands," in keeping with the plain language of the Clean Water Act and its  
25 implementing regulations.

26 B. If the State declines to grant the relief identified above, revise the Permit to  
27 delete the requirement of a "regulatory" mechanism such as a permit or waiver for non-point  
28 sources, and allow for an MOU or similar agreement to implement the substantive provisions

1 of the negotiated program outside the Permit boundary.

2 C. Revise Section E.9.5(a)(1) to require that "Each Co-Permittee shall perform  
3 street sweeping of curbed streets in areas subject to high trash generation prior to the rainy  
4 season and as needed thereafter" and Section E.9.5(a)(2) to require that "Each Co-Permittee  
5 shall perform street sweeping of curbed streets in residential areas identified in their SWMP  
6 prior to the rainy season and as needed thereafter."

7 D. Revise Section A to include an exception stating that "Discharges of storm  
8 water, non-storm water and/or pollutants to or that are present in waters of the State prior to  
9 the waters of the State entering an MS4 are not subject to this permit. An MS4 does not  
10 include culverts or bridges that are intended to convey waters of the State under a roadway or  
11 structure."

12 Revise the Appendix C definition of MS4 to note that "An MS4 does not include  
13 culverts or bridges that are intended to convey waters of the State under a roadway or  
14 structure."

15 E. Revise Section E.3.3(f)(2) to mirror or refer to the language in Section  
16 E.3.2(a)(1)(G).

17 F. Revise Section E.5.2(b)(2)(a) to permit the use of underdrains as an LID  
18 strategy where necessary, or remand to allow the Regional Board to consider the true  
19 language of Section E.5.2(b)(3) and the "clarifying" revision now proposed by staff.

20 G. Revise Section E.8.2(a) to clarify that subparagraphs (2), (3), and (4) apply  
21 only to grading on slopes greater than 20 percent.

22  
23 **7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL**  
24 **ISSUES RAISED IN THE PETITION.**

25 The County's preliminary statement of points and authorities is set forth in Section 4  
26 above. The County reserves the right to supplement this statement upon receipt and review  
27 of the administrative record.  
28

1 8. **A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE**  
2 **REGIONAL BOARD.**

3 A true and correct copy of this Petition was mailed by First Class mail on November  
4 2, 2009 to the Regional Board at the following address:

5 Cat Kuhlman  
6 Executive Officer  
7 North Coast Regional Water Quality Control Board  
8 5550 Skylane Blvd., Suite A  
9 Santa Rosa, CA 95403-1072

9 9. **A STATEMENT THAT THE SUBSTANTIVE ISSUES AND OBJECTIONS**  
10 **RAISED IN THE PETITION WERE RAISED BEFORE THE REGIONAL**  
11 **BOARD, OR AN EXPLANATION WHY NOT.**

12 The substantive issues and objections raised in this Petition were raised before the  
13 Regional Board.

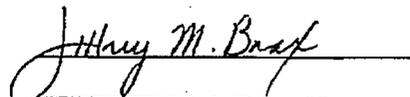
14 10. **PETITIONER'S REQUEST FOR ABEYANCE.**

15 Notwithstanding the vital importance of the issues contained herein, the County  
16 respectfully requests that the State Board place this Petition in abeyance pursuant to 23 Cal.  
17 Code Regs. § 2050(d) to allow time for the County to attempt to resolve its concerns with the  
18 Regional Board. As noted above, the Regional Board made many positive changes between  
19 the first and second drafts of the permit, and many of the remaining issues were created only  
20 at the very end of the process. The County is hopeful that these issues can be resolved  
21 informally.

22 Dated: November 2, 2009

STEVEN M. WOODSIDE, County Counsel

24  
25 By:



26 JEFFREY M. BRAX  
27 Deputy County Counsel  
28 Attorneys for Petitioner  
COUNTY OF SONOMA

**STATE OF CALIFORNIA**

California Regional Water Quality Control Board  
North Coast Region

Order No. R1-2009-0050  
NPDES No. CA0025054  
WDID No. 1B96074SSON

Waste Discharge Requirements

For

The City of Santa Rosa, the County of Sonoma, and  
the Sonoma County Water Agency

Storm Water and Non-Storm Water Discharges  
from Municipal Separate Storm Sewer Systems

Sonoma County

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**FINDINGS**

The California Regional Water Quality Control Board, North Coast Region, (Regional Water Board) finds that:

1. The City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency (hereinafter Co-Permittees) jointly submitted a Report of Waste Discharge dated December 21, 2007. The report was submitted to request renewal of Waste Discharge Requirements (hereinafter Order) under the National Pollutant Discharge Elimination System (NPDES). The Co-Permittees discharge or contribute to discharges of storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems, to the Russian River and its tributaries and other waters.
2. The Fact Sheet is hereby incorporated into this Order.
3. This Order includes a Monitoring and Reporting Program and the following attachments:
  - (a) Attachment A – Beneficial Uses of Waters within or downstream of the Permit Boundary.
  - (b) Attachment B – Standard Provisions of the Order.
  - (c) Attachment C – Definitions of Terms in the Order.

(d) Attachment D – Co-Permittees' Storm Water Management Plan Summary.

**Public Process**

4. On September 9, 2008, the Regional Water Board released the first draft of this Order for a 43 day public comment period that ended on October 22, 2008. The Regional Water Board received 159 comment letters. Responses to these comments can be found in a separate document that was released during the comment period for the second draft of this Order.
5. The Executive Officer of the Regional Water Board held a public workshop on October 21, 2008 to discuss this Order, receive comments and answer questions about the Order.
6. In writing the second draft of this Order, Regional Water Board staff met with interested parties and parties that had commented on the draft Order. Meetings were held with:
  - (a) Co-Permittees: September 25, 2008; October 23, 2008; November 13, 2008; November 25, 2008; December 8, 2008; December 15, 2008; December 29, 2008; December 30, 2008; January 8, 2009; January 20, 2009; January 21, 2009; January 28, 2009; February 4, 2009; February 19, 2009; February 26, 2009; March 12, 2009; and April 9, 2009;
  - (b) Russian River Watershed Association: October 14, 2008;
  - (c) Sonoma County Fire Fighter's Association: October 28, 2008;
  - (d) Russian River Watershed Protection Committee: November 19, 2008;
  - (e) Russian Riverkeeper and Coast Action Group: December 2, 2008;
  - (f) Sonoma Marin Vector Control District: December 9, 2008;
  - (g) Engineers representing associations and local consultants: December 15, 2008;
  - (h) U.S.EPA: February 18, 2009; and
  - (i) Department of Fish and Game: March 3, 2009.
7. On May 22, 2009, the Regional Water Board released the second draft of this Order for a 45 day public comment period that ended on July 6, 2009. The Regional Water Board received 17 comment letters.
8. On June 22, 2009, the Regional Water Board released staff responses to the comments received on the first draft of this Order.
9. On July 22, 2009, the Regional Water Board held a public hearing to discuss the second draft of this Order, receive public testimony, and ask questions of the Co-Permittees, the public and Regional Water Board staff. Adoption of the draft Order was not considered at this public hearing.

10. In revising the draft Order for Regional Water Board consideration, Regional Water Board staff met with parties that requested a meeting. These parties include:
  - (a) Sonoma County Water Agency: August 6, 2009;
  - (b) City of Santa Rosa: August 10, 2009;
  - (c) Co-Permittees: August 19, 2009; and
  - (d) Sonoma County: August 26, 2009.
  
11. The Regional Water Board has notified the Co-Permittees and interested parties of its intent to prescribe waste discharge requirements (WDRs) for this discharge. Regional Water Board staff and Co-Permittees' staff have worked closely together over the last two years to develop the Management Plan and discuss revisions to the previous Order to achieve a well integrated set of documents that will effectively protect water quality. The hearing on the Order was properly noticed. Accordingly, the Co-Permittees and interested parties have been given an opportunity to address the Regional Water Board at a public hearing and an opportunity to submit their written comments and recommendations to the Regional Water Board.
  
12. The issuance of waste discharge requirements is exempt from the California Environmental Quality Act (CEQA) of the Public Resources Code in accordance with California Water Code section 13389. Notwithstanding, the Regional Water Board has considered the policies and requirements set forth in Chapters 1 through 2.6 of CEQA (Pub. Resources Code §§ 21000-21098).
  
13. The Regional Water Board has considered the information in the attached Management Plan, which is part of this Order, in developing the Findings of this Order and the Fact Sheet.
  
14. This Order shall serve as an NPDES permit, pursuant to Clean Water Act (CWA) section 402, or amendments thereto, and shall take effect 90 days from Order adoption date provided the Regional Administrator of the United States Environmental Protection Agency (U.S.EPA) has no objections.
  
15. Pursuant to Water Code section 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board within 30 days of adoption of the Order by the Regional Water Board. A petition must be sent to:

State Water Resources Control Board  
Office of the Chief Counsel  
P.O. Box 100  
Sacramento, CA 95812-0100

16. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the NPDES

program 40 CFR 122.41(f) & 122.62, and the Water Code § 13167.5 for the issuance of waste discharge requirements.

17. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge and this Order.

### **Background**

18. Section 402(p) of the federal Clean Water Act (CWA) (33 U.S.C. § 1342(p)), as amended by the Water Quality Act of 1987, requires NPDES permits for discharges from Municipal Separate Storm Sewer Systems (MS4s) that include a requirement to effectively prohibit non-storm water discharges into storm sewers and that require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP), including management practices, control techniques and system, design and engineering methods, and such other provisions as the State determines appropriate for the control of such pollutants. On November 16, 1990, the U.S.EPA published regulations (40 CFR Part 122) which prescribe permit application requirements for MS4s pursuant to section 402(p) of the CWA. On May 17, 1996, U.S.EPA published an Interpretive Policy Memorandum on Reapplication Requirements for MS4s, which provided guidance on permit application requirements for regulated MS4s.
19. On September 9, 1997, the Co-Permittees entered into a cooperative agreement to share costs and other resources for implementing NPDES storm water program activities. The Co-Permittees were designated on a system-wide basis under Phase I of the CWA § 402(p)(3)(B)(i). The action of covering the Co-Permittees under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR 122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems; and the Regional Water Board may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.
20. The Regional Water Board may require storm water permits for a storm water discharge that the State determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. In addition, the Regional Water Board may adopt a separate NPDES permit for any entity that discharges storm water into the watersheds included in this Order. Such an entity can be any State or Federal facility, special district or other public or private party. (1342 U.S.C. § 402(p)(2)(E).)

21. The discharges from the Co-Permittees' MS4s, as detailed in the Fact Sheet, contribute to violations of water quality standards and are a contributor of pollutants, including impairing pollutants, to the Laguna watershed.
22. As described above, section 402(p)(3)(B) of the CWA requires that MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP), including management practices, control techniques and systems, design engineering methods and such other provisions as the [U.S. EPA] Administrator or the state determines appropriate for the control of such pollutants." The State Water Resources Control Board (State Water Board)'s Office of Chief Counsel (OCC) has issued a memorandum, dated February 11, 1993, interpreting the meaning of MEP to include technical feasibility, cost, and benefit derived with the burden being on the municipality to demonstrate compliance with MEP when rejecting a particular best management practice by showing that it is not technically feasible in the locality, that its costs would exceed any benefit to be derived, or that its cost would be prohibitive. (See also *In re Petition of the Cities of Bellflower et al.* (SWRCB 2000) Order No. WQ 2000-11, p. 20.) MEP generally emphasizes pollution prevention and source control best management practices (BMPs) (as first line of defense) in combination with treatment methods as a backup (additional line of defense). Furthermore, it is recognized that the implementation of BMPs to ensure water quality protection is an iterative process. BMPs must be evaluated for success and, when necessary, additional BMPs implemented to provide required water quality protection.
23. The Co-Permittees are currently subject to Order No. R1-2003-0062 adopted on June 26, 2003.
24. The Co-Permittees have jurisdiction over and/or maintenance responsibility for their respective MS4s that they own and operate in Sonoma County. The MS4 discharges consist of storm water runoff generated from various land uses discharging into Santa Rosa Creek, the Laguna de Santa Rosa (Laguna), Mark West Creek, the lower Russian River, bay and ocean waters and other surface waters. In addition, various non-storm water discharges enter the MS4 and are discharged to surface waters. The quality and quantity of these discharges varies considerably due to the effects of land use, season, geology, and the sequence and duration of hydrologic events.
25. The previous two five-year terms of the MS4 permit provided for an increasingly robust program for all mandated components. The Co-Permittees have implemented many programs and policies intended to control the discharge of pollutants into their MS4 systems. Due to the differences in their levels of responsibility and authority, each Co-Permittee has developed and implemented its own individual program. However, where possible, consistent strategies are implemented throughout the permit area. Examples of first-term and second-term

accomplishments include: implementing a spill response and enforcement program; implementing a year-round inspection program focusing on erosion and non-storm water discharge control; conducting ongoing education and outreach activities; biological and chemical monitoring of select receiving waters; the establishment of a refined working relationship between the Co-Permittees and the Regional Water Board with respect to reducing pollutants of concern in storm water runoff; and development and implementation of the Standard Urban Storm Water Mitigation Plan (SUSMP). However, during the previous permit terms, monitoring of receiving waters has shown continued pollution concerns. Additional receiving water bodies have been included on the 303(d) list of impaired waters. During this third-term of the MS4 permit, the Co-Permittees are required to implement a more effective combination of these programs and policies and will implement additional programs as identified in this Order which will ensure that pollutant loads resulting from storm water runoff are properly controlled and managed to the MEP.

26. Permit boundary

The first term of this Order defined a permit boundary which consisted of the existing Santa Rosa city limits, areas tributary to the City, Sonoma County islands within the City limits and the City's future urban growth boundary. Many areas of the watershed were not included within the permit boundary of the first-term permit. Since these additional areas do discharge storm water runoff and do contribute, cumulatively, to the water quality impairment of downstream receiving waters, the next permit expanded the permit boundary to apply to all City and Sonoma County controlled MS4s within the Mark West Creek and Laguna de Santa Rosa watersheds as well as urban clusters outside of Healdsburg and Graton.

The first draft of this Order proposed to expand the current MS4 permit boundary from the Laguna de Santa Rosa and Mark West Creek watersheds as well as the area outside of Healdsburg and the Graton area, to include the entire area of Sonoma County that falls within the North Coast Region. The MS4 permit boundary had been proposed for expansion for the following reasons: (1) the North Coast Region has CWA section 303(d) impaired water bodies that receive storm water runoff containing constituents of concern in areas of Sonoma County outside the Laguna de Santa Rosa and Mark West Creek watersheds, (2) total maximum daily loads (TMDLs) will be developed for these water bodies and until TMDLs are established, the impaired waters must be protected from the discharge of pollutants, (3) these additional areas of Sonoma County do discharge storm water runoff and do contribute, cumulatively, to the water quality impairment of downstream receiving waters; (4) many of these water bodies provide habitat for endangered species, (5) to encourage the Co-Permittees to provide consistent requirements and standards for development within Sonoma County, and (6) the North Coast Region has a designated area of biological significance (ASBS) in the

waters of Bodega Bay and Sonoma County has substantial coastal resources that need to be protected from new and existing sources of storm water pollution.

Sonoma County submitted comments on the first draft of this Order objecting to the proposed expansion of the permit boundary, citing cost concerns. Regional Water Board and Sonoma County staff have discussed the implementation of four primary program elements of this Order in those areas of the county that are outside the existing permit boundary, but within the Regional Water Board's jurisdiction. These four elements include (1) implementation of post-construction treatment controls, including Low Impact Development (LID) and hydromodification requirements to mitigate storm water pollution for new development and redevelopment projects; (2) implementation of the Public Agency Activities Program, as detailed in Special Provisions E Part 9; (3) creation and implementation of an approved BMP program that reduces or eliminates non-storm water discharges or a prohibition on such discharges, and (4) implementation of a program to eliminate all illicit connections and illicit discharges to the MS4. Regional Water Board staff has determined that implementation of these programs county-wide within the North Coast Region would be most effective for protecting water quality. Regional Water Board staff is willing to implement these program elements under another regulatory program instead of including the expanded permit boundary in this Order.

If Regional Water Board and Sonoma County staff can reach an agreement on a management plan, Sonoma County would implement these primary programs county-wide in the North Coast Region. Several mechanisms that may be used to require the implementation of these four programs on a county-wide basis include the issuance of a waiver of waste discharge requirements or requiring enrollment of those areas of the County outside of the permit boundary of this Order under a Phase II storm water permit. In either case, Regional Water Board staff would provide an opportunity for public comment on the county-wide expansion of the four elements of the storm water program described above.

If the Regional Water Board and Sonoma County cannot reach an agreement on a management plan to implement the above programs on a county-wide basis within the North Coast Region, the Regional Water Board may reopen this Order to consider expansion of the permit boundary.

In exchange for an agreement from Sonoma County to implement the above programs county-wide in the North Coast Region, Regional Water Board staff agreed to keep the existing permit boundary. The permit boundary in this Order is the same as that in the current permit, and includes those areas of the MS4s within the Mark West Creek and Laguna de Santa Rosa watersheds that are controlled by the City of Santa Rosa and Sonoma County, in addition to County controlled MS4s located in Graton and urban clusters outside of Healdsburg. This

Order will reduce discharges from Co-Permittee owned and/or operated storm water infrastructure currently in place as well as future additions to the system. This Order will help provide a consistent watershed-wide effort to control all MS4 sources of pollutants to receiving waters within the watershed.

27. Storm water runoff and non-storm water discharges that enter the Co-Permittees' MS4s are regulated by this Order. An MS4 is a public storm water conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains. An MS4 is designed or used for collecting or conveying storm water. It is not a combined sanitary sewer and is not part of a Publicly Owned Treatment Works (POTW). An MS4 does not include culverts or bridges that are intended to convey waters of the State under a roadway or structure. CWA section 402(p) and 40CFR 122.26 (a)(v) give the State authority to regulate discharges from an MS4 on a system-wide or jurisdiction-wide basis.
28. Federal and State entities within the Co-Permittees' boundaries, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Co-Permittees may lack legal jurisdiction over these entities under State and Federal constitutions. Many of these entities are subject to regulation under the Phase II storm water permit program. The Regional Water Board will work with these entities to ensure the implementation of programs that are consistent with the requirements of this Order.
29. A Co-Permittees need only comply with permit conditions relating to discharges from MS4s for which they are operators. (40 CFR 122.26(a)(3)(vi)). The Co-Permittees may perform duties required by or related to this Order in another jurisdiction if both Co-Permittees agree to this arrangement and this should be identified in the Storm Water Management Plan.
30. This Order and its requirements are not intended to restrict or control local land use decision-making authority. The Co-Permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each Co-Permittees' jurisdiction. The Regional Water Board recognizes that the Co-Permittees' land use authority allows urban developments that may generate pollutants and runoff that could impair receiving water quality and beneficial uses. The Co-Permittees are therefore responsible for considering potential storm water impacts when making planning decisions in order to fulfill the CWA requirement to reduce the discharge of pollutants in municipal storm water to MEP and to effectively prohibit non-storm water discharges into the storm sewers. This responsibility requires the Co-Permittees to exercise their legal authority to ensure that any increased pollutant loads and flows do not affect the beneficial uses of the receiving water. The

Sonoma County Water Agency (Water Agency) does not have land use authority and can control activities conducted by Water Agency staff or conducted on its own property. Therefore, not all requirements in this Order are applicable to the Water Agency.

31. This Order is not intended to prohibit the inspection or abatement of vectors by the State Department of Health Services or local vector control agencies in accordance with California Health and Safety Code section 2270 *et seq.* and section 116110 *et seq.* Certain storm water treatment controls, if not properly designed, operated or maintained, may create habitats for vectors (e.g. mosquitoes and rodents). This Order expects the Co-Permittees to closely cooperate and collaborate with local vector control agencies and the State Department of Health Services for the implementation, operation, and maintenance of storm water treatment controls in order to minimize the risk to public health from vector borne diseases.

**IT IS HEREBY ORDERED** that the Co-Permittees, in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, shall comply with the following:

**A. DISCHARGE PROHIBITIONS**

1. Discharges of storm water or non-storm water from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined in Water Code section 13050), in waters of the State are prohibited.
2. Discharges from the MS4, which cause or contribute to exceedances of receiving water quality objectives for surface waters are prohibited.
3. Discharges from the MS4 shall be in compliance with the applicable discharge prohibitions contained in the Water Quality Control Plan for the North Coast Basin (Basin Plan).
4. In accordance with the requirements of 40 CFR 122.26(d)(2)(i)(B) and 40 CFR 122.26(d)(2)(i)(F), the Co-Permittees shall prohibit illicit/illegal discharges (non-storm water) from entering into the MS4 unless such discharges are either authorized by an NPDES permit, or not prohibited in accordance with Discharge Prohibition 5, below.
5. Non-Storm Water Discharges
  - (a) Impacts to receiving waters from non-storm water flows may include increased pollutant loading, flow modification and related physical changes to receiving waters, and creation of a condition of nuisance. The

- Co-Permittees shall effectively prohibit non-storm discharges into the MS4 and watercourses. In lieu of a strict prohibition, a Co-Permittee may submit a plan for Executive Officer authorization that includes categories of non-storm water discharges and associated BMPs to minimize or eliminate those types of non-storm water discharges to the MS4.
- (b) A Co-Permittee shall require that non-storm water flows infiltrate into the ground where possible and perform public outreach and education intended to reduce or eliminate such discharges as one of the BMPs associated with each type of non-storm water discharge that they seek authorization from the Executive Officer to allow into the MS4.
  - (c) As described in A - 5(a), above, a Co-Permittee may submit a BMP plan to apply for authorization from the Executive Officer to allow specific non-storm water flows into the MS4. The BMP plan submitted by a Co-Permittee shall be noticed for public review prior to authorization by the Executive Officer.
  - (d) The Co-Permittees shall either submit a BMP plan for Executive Officer approval or prohibit the non-storm water discharges in Table 1 by May 15, 2010. The Co-Permittees shall implement Part 10 – Illicit Connections and Discharges Elimination Program to effectively prohibit non-storm water discharges into the MS4 until an approved BMP plan or prohibition is in place.
  - (e) The Executive Officer will consider authorizing the discharge of non-storm water flows that are listed below in Table 1 (BMPs for Non-Storm Water Discharges), and are not a significant source of pollutants. Upon request by a Co-Permittee, the Executive Officer may consider authorizing the discharge of categories of non-storm water flows in addition to those described in Table 1.

Table 1. BMPs for Non-Storm Water Discharges

<b>Type of Discharges:</b>	<b>Conditions under which allowed:</b>	<b>BMP plans shall include, but not be limited to:</b>
Stream diversions permitted by the State or Regional Water Board where such flows are intentionally diverted into the MS4.	Shall comply with all conditions in the Executive Officer's authorization.	Erosion, sediment, and velocity controls to keep the diverted flows from discharging sediment to the MS4 and to prevent storm drain sediment scour.
Natural springs and rising ground water that are intentionally diverted into the MS4.	<ol style="list-style-type: none"> <li>1. Shall comply with all conditions in the Executive Officer's authorization.</li> <li>2. Ground water dewatering (from construction or pumped sources) may require a separate NPDES permit.</li> </ol>	<ol style="list-style-type: none"> <li>1. No sources of ground water contamination near the diversion site.</li> <li>2. Segregate flow to prevent introduction of pollutants.</li> <li>3. Sediments removed from discharge through settling or filtration.</li> </ol>

Type of Discharges:	Conditions under which allowed:	BMP plans shall include, but not be limited to:
		4. Control flow rate of discharge to minimize erosion potential. 5. BMPs such as sand bags shall be utilized to prevent erosion and sediment transport. 6. All sediments shall be collected and disposed of in a legal and appropriate manner.
Uncontaminated ground water infiltration into structures [as defined by 40 CFR 35.2005(20)] <sup>1</sup> (Utility vault dewatering requires a separate NPDES permit) where flows are diverted into the MS4.	Shall comply with all conditions in the Executive Officer's authorization.	No sources of ground water contamination near the extraction site.
Overflows from riparian habitats or wetlands where such flows are intentionally diverted into the MS4.	1. Shall comply with all conditions in the Executive Officer's authorization. 2. Provided that all necessary permits or authorizations are received prior to diverting the flow.	Dewatering that would impact beneficial uses of wetlands and other state waters shall be prohibited unless approved by the Regional Water Board.
Flows from emergency fire fighting activity.	No authorization from the Executive Officer needed.	1. BMPs shall be used whenever possible. 2. Pooled water after fire shall be controlled (non-emergency repair or training flows are not allowed). 3. Runoff controls shall be considered for fires at industrial or other facilities where hazardous materials may be onsite.

<sup>1</sup> NPDES permit for ground water dewatering is required within the North Coast Region including Sonoma County.

Type of Discharges:	Conditions under which allowed:	BMP plans shall include, but not be limited to:
Flows from fire fighting training and equipment repair activities.	Shall comply with all conditions in the Executive Officer's authorization.	<ol style="list-style-type: none"> <li>1. Must be dechlorinated using aeration and/or other appropriate means including infiltration into the ground.</li> <li>2. Sediment and solids removed from discharge through settling or filtration.</li> <li>3. Control flow rate of discharge to minimize erosion potential.</li> <li>4. BMPs such as sand bags shall be utilized to prevent erosion and sediment transport.</li> <li>5. BMPs including education materials, structural containment when possible, infiltration and evaporation when possible shall be used for controlling training flows.</li> </ol>
Fire hydrant testing.	Shall comply with all conditions in the Executive Officer's authorization.	<ol style="list-style-type: none"> <li>1. Must be dechlorinated using aeration and/or other appropriate means including infiltration into the ground.</li> <li>2. Utilize BMPs to increase the distance and removal of chlorine by volatilization before discharge to a storm drain.</li> </ol>
Discharges from potable water sources. <sup>2</sup>	<ol style="list-style-type: none"> <li>1. Shall comply with all conditions in the Executive Officer's authorization.</li> <li>2. Planned discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.</li> </ol>	<ol style="list-style-type: none"> <li>1. Must be dechlorinated using aeration and/or other appropriate means including infiltration into the ground.</li> <li>2. Sediment and solids removed from discharge through settling or filtration.</li> <li>3. Control flow rate of discharge to minimize erosion potential.</li> <li>4. BMPs such as sand bags shall be utilized to prevent erosion and sediment transport.</li> <li>5. All sediments shall be collected and disposed of in a legal and appropriate manner.</li> </ol>

Type of Discharges:	Conditions under which allowed:	BMP plans shall include, but not be limited to:
Utility vault dewatering.	<ol style="list-style-type: none"> <li>1. Shall comply with all conditions in the Executive Officer's authorization.</li> <li>2. Coverage under Order No. 2006-0008-DWQ or as updated may be required.</li> <li>3. No reasonable potential to discharge CTR pollutants.</li> </ol>	<ol style="list-style-type: none"> <li>1. Segregation of flow to prevent introduction of pollutants.</li> <li>2. Sediment removal through settling or filtration.</li> </ol>
Gravity flow from foundation, footing and crawl drains.	Shall comply with all conditions in the Executive Officer's authorization.	<ol style="list-style-type: none"> <li>1. Segregation of flow to prevent introduction of pollutants.</li> <li>2. Sediment removal through settling or filtration.</li> <li>3. No sources of ground water contamination near the extraction site.</li> </ol>
Air conditioning condensate.	Shall comply with all conditions in the Executive Officer's authorization.	Segregation of flow to prevent introduction of pollutants.
Water from crawl space pumps.	Shall comply with all conditions in the Executive Officer's authorization.	<ol style="list-style-type: none"> <li>1. Segregation of flow to prevent introduction of pollutants.</li> <li>2. Sediment removal through settling or filtration.</li> <li>3. No sources of ground water contamination near the extraction site.</li> </ol>
Reclaimed and potable landscape irrigation runoff.	<ol style="list-style-type: none"> <li>1. Shall comply with all conditions in the Executive Officer's authorization.</li> <li>2. Reclaimed water irrigation sites must have appropriate permits from the State or Regional Water Boards.</li> </ol>	<ol style="list-style-type: none"> <li>1. Segregation of flow to prevent introduction of pollutants.</li> <li>2. Implement conservation programs, which will minimize the amount of irrigation water that could be accidentally discharged.</li> <li>3. User agreements between Master Water Recycler and recycled water user requiring adherence to Title 22 standards and setbacks from waterways.</li> <li>4. Implement structural BMPs such</li> </ol>

<sup>2</sup> The term applies to low volume, infrequent, and/or incidental releases that are innocuous from a water quality perspective. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity.

Type of Discharges:	Conditions under which allowed:	BMP plans shall include, but not be limited to:
		<p>as low flow emitters.</p> <ol style="list-style-type: none"> <li>5. Provide infiltration areas at the lowest elevation of large urban irrigation areas, if possible.</li> <li>6. Proper maintenance of sprinkler systems.</li> <li>7. Development of public outreach programs, nutrient management plans, inspections, monitoring, complaint response, and enforcement protocols.</li> </ol>
<p>Dechlorinated/debrominated swimming pool discharges (see definitions).</p>	<ol style="list-style-type: none"> <li>1. Shall comply with all conditions in the Executive Officer's authorization.</li> <li>2. Provided discharge to a sanitary sewer or land is not available. Swimming pool discharges must be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</li> <li>3. Cleaning waste water and filter back wash shall not be discharged to the MS4. Water that has been hyperchlorinated shall not be discharged to the MS4, even after de-chlorination. No discharges are allowed containing salts in excess of Water Quality Standards.</li> <li>4. Chlorine residual in discharge shall not exceed 0.02mg/L.</li> </ol>	<ol style="list-style-type: none"> <li>1. Segregation of flow to prevent introduction of pollutants.</li> <li>2. Sediment removal through settling or filtration.</li> </ol>
<p>Non-commercial car washing by residents or non-profit organizations.</p>	<p>Shall comply with all conditions in the Executive Officer's authorization.</p>	<ol style="list-style-type: none"> <li>1. Preferred area is at commercial carwash or in an area where wash water infiltrates.</li> <li>2. Pumps, vacuums or physical routing BMPs may be used to</li> </ol>

Type of Discharges:	Conditions under which allowed:	BMP plans shall include, but not be limited to:
		direct water to areas for infiltration or re-use.
Pooled storm water from treatment BMPs <sup>3</sup> that are intentionally discharged to the MS4 as part of maintenance activities	Shall comply with all conditions in the Executive Officer's authorization.	<ol style="list-style-type: none"> <li>1. All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer.</li> <li>2. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants.</li> <li>3. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included).</li> <li>4. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.</li> </ol>

- (f) If the Regional Water Board Executive Officer determines that any of the preceding categories of non-storm water discharges are a continuing source of significant pollutants, the Co-Permittee(s) shall either:
- (1) Prohibit the discharge from entering the MS4; or
  - (2) Authorize the discharge category and require implementation of appropriate or additional BMPs to ensure that the discharge will not be a source of pollutants; or
  - (3) Require or obtain coverage under a separate NPDES permit for discharge into the MS4.

**B. RECEIVING WATER LIMITATIONS**

1. Discharges of storm water or non-storm water from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
2. Discharges of storm water or non-storm water from the MS4 shall not cause or contribute to a condition of pollution or nuisance.

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<sup>3</sup> All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

3. The Co-Permittees shall comply with Discharge Prohibitions and Receiving Water Limitations through timely implementation of control measures and other actions to reduce pollutants in storm water and non-storm water discharges in accordance with the respective Management Plan and this Order. The Management Plan shall be designed to achieve compliance with Receiving Water Limitations, Discharge Prohibitions and water quality standards. If exceedance(s) of water quality objectives or water quality standards (collectively WQS) persist, notwithstanding implementation of the Management Plan and this Order, the Co-Permittee(s) shall assure compliance with WQS by complying with the following procedure:
  - (a) Upon a determination by either the Co-Permittee(s) or the Regional Water Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, which may be determined from the results of the receiving water monitoring program described in Monitoring and Reporting Program No.R1-2009-0050 or by other information obtained by the Co-Permittee(s), the Co-Permittee(s) shall notify the Regional Water Board within 30 days of any such determination, and thereafter submit a Receiving Water Limitations (RWL) Compliance Report to the Regional Water Board Executive Officer for approval. The RWL Compliance Report shall be included with the Annual Report, unless the Regional Water Board Executive Officer directs an earlier submittal.
  - (b) The RWL Compliance Report shall describe BMPs currently being implemented and the additional BMPs that will be implemented, to prevent or reduce the discharge of any pollutants that are causing or contributing to exceedances of WQS.
  - (c) The RWL Compliance Report shall include a BMP implementation schedule.
  - (d) Within 30 days following approval of the RWL Compliance Report, the approved or modified suite of BMPs, the implementation schedule, and any additional monitoring required shall be implemented.
  - (e) Modifications to the RWL Compliance Report required by the Regional Water Board Executive Officer shall be submitted within 30 days of notification unless directed otherwise by the Regional Water Board Executive Officer.
  - (f) The Co-Permittee(s) shall revise the Management Plan to incorporate the approved modified BMPs, implementation schedule, and any additional monitoring required, and implement the revised monitoring program according to the approved schedule.
  
4. The Co-Permittee(s) will have to implement alternative BMPs or combinations of BMPs and will repeat the procedure set forth above for continuing or recurring exceedances of the same WQS unless directed otherwise by the Regional Water Board Executive Officer. The Co-Permittees shall not be

expected to continue using the same specific BMPs repetitively if they have been shown to be ineffective.

**C. TOTAL MAXIMUM DAILY LOAD FOR DISCHARGES TO THE LAGUNA DE SANTA ROSA**

1. The 1995 Waste Reduction Strategy for the Laguna de Santa Rosa Total Maximum Daily Load (TMDL) is discussed in the Fact Sheet. It was removed from this section to clarify that the goals are not enforceable.

Table 2. Laguna TMDL Net Load Goals for Total Nitrogen (pounds/season) in Urban Runoff. This table has been moved to the Fact Sheet and intentionally left blank in this Order.


Table 3. Laguna TMDL Net Load Goals for Total Ammonia (pounds/season) in Urban Runoff. This table has been moved to the Fact Sheet and intentionally left blank in this Order.


## **D. STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION**

### **PART 1 – General Requirements**

1. Each Co-Permittee shall, at a minimum, adopt and implement applicable terms of this Order within the permit boundary. The Co-Permittees shall be responsible for program coordination as described in this Order as well as compliance with applicable portions of this Order within the permit boundary. This Order shall be implemented no later than January 1, 2010, unless a later date has been specified for a particular provision in this Order and provided the U.S. EPA has no objections.
2. Each Co-Permittee shall comply with the requirements of 40 CFR 122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality objectives.

### **PART 2 – Legal Authority**

1. Co-Permittees shall possess the necessary legal authority to prohibit, including, but not limited to, the following:
  - (a) Illicit connections and illicit discharges;
  - (b) The discharge of non-storm water to the MS4 from the following (at a minimum):
    - (1) Washing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities;
    - (2) Mobile auto washing, carpet cleaning, steam cleaning, sandblasting and other such mobile commercial and industrial operations;
    - (3) Areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;
    - (4) Storage areas for materials containing grease, oil, or other hazardous substances, storage areas for fertilizers and soil amendments, and uncovered receptacles containing hazardous materials;
    - (5) Swimming pools that have a concentration greater than:
      - (A) Chlorine/bromine - 0.02mg/L;
      - (B) Chloride - 250mg/L;
    - (6) Swimming pool filter backwash;
    - (7) Landscape irrigation overflow (either recycled or potable water);
    - (8) Decorative fountains and ponds;
    - (9) Industrial and commercial areas, including areas where restaurant mats are cleaned;

- (10) Concrete truck cement, pumps, tools, saw cutting waste fluids, and equipment washout;
  - (11) Spills, dumping, or disposal of materials, such as:
    - (A) Litter, landscape and construction debris, household refuse, garbage, food, animal waste, fuel or chemical wastes, batteries, and any other materials which have the potential to adversely impact water quality;
    - (B) Any pesticide, fungicide or herbicide;
  - (12) Stationary and mobile pet grooming facilities;
  - (13) Trash container leachate; and
  - (14) Discharges from onsite wastewater systems.
2. The Co-Permittees shall possess adequate legal authority to achieve WQS and:
- (a) Control through interagency agreement, the contribution of pollutants from one portion of the MS4 to another portion of the MS4;
  - (b) Require persons within their jurisdiction to comply with conditions in the Co-Permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);
  - (c) Utilize progressive and consistent enforcement measures (e.g., stop work orders, notices of violation, monetary penalties, referral to City, County, and/or District Attorneys, referral to task forces, etc.) authorized by ordinances, permits, contracts, orders, administrative authority, and civil and criminal prosecution<sup>4</sup>;
  - (d) Control pollutants, including potential contributions from discharges of storm water runoff associated with industrial activities, including construction activities, to its MS4, and control the quality of storm water runoff from these sites;
  - (e) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition on illicit discharges to the MS4;
  - (f) Require the use of control measures to prevent or reduce the discharge of pollutants; and
  - (g) Require that treatment control BMPs be properly operated and maintained.
3. Each Co-Permittee has a currently adopted Storm Water Quality Ordinance that prohibits the discharge of pollutants to their MS4 without proper authorization. These existing ordinances may not be adequate to implement

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<sup>4</sup> Where the Co-Permittee has no direct authority, the Co-Permittee is required to enter into an agreement with the agency or department that has the enforcement authority. In the case of private responsible parties such as, home owner's associations, the Co-Permittee must retain enforcement authority.

requirements of this Order. Therefore, each Co-Permittee will update its Storm Water Quality Ordinance to be able to enforce all requirements of this Order, no later than April 1, 2011.

4. Each Co-Permittee shall submit no later than April 1, 2011, a statement by its legal counsel that the Co-Permittee has obtained and possesses all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

### **PART 3 – Fiscal Resources**

1. The Co-Permittees shall implement the activities required to comply with the provisions of this Order.<sup>5</sup> Each Co-Permittee shall:
  - (a) Submit an Annual Budget Summary that shall include:
    - (1) The storm water budget for the prior report year, using actual expenditures, including written explanation where necessary, for the implementation of the storm water program.
    - (2) The storm water budget for the upcoming report year, using estimated expenditures, with written explanation where necessary, for the implementation of the storm water program.
    - (3) The Annual Budget Summary shall identify for both the prior report year (actual expenditure) and the upcoming report year (estimated expenditure) the following specific categories:
      - (A) Storm water program management activities and overall administrative costs;
      - (B) Storm water program required activities implementation (storm water related activities only). Provide figures describing the breakdown of expenditures for the categories below:
        - (i) Illicit connection/illicit discharge prevention;
        - (ii) Development planning program;
        - (iii) Development construction program;
        - (iv) Construction inspection activities;
        - (v) Industrial/Commercial inspection activities;
        - (vi) Public agency activities;
        - (I) Inspection and maintenance of structural BMPs and treatment control BMPs;
        - (II) Municipal street sweeping for commercial/industrial land uses only;
        - (III) Catch basin clean-outs (include dumping fees separately);

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<sup>5</sup> The sources of funding may be the general funds, and/or Benefit Assessment, plan review fees, permit fees, industrial and commercial user fees, revenue bonds, grants or other similar funding mechanisms.

- (IV) Storm drain clean-outs (include dumping fees separately);
- (V) Other costs (describe);
- (vii) Public information and participation program;
- (viii) Monitoring program; and
- (ix) Miscellaneous expenditures (describe).

#### **PART 4 – Modifications/Revisions**

1. No later than April 1, 2011 each Co-Permittee shall modify storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements herein, unless otherwise specified in this Order.
2. The Regional Water Board shall consider approval of requested modifications to the Management Plan annually or as the Regional Water Board decides is necessary.

#### **PART 5 – Responsibilities of the Co-Permittees**

1. Each Co-Permittee is required to comply with the requirements of this Order applicable to MS4 discharges within its boundaries. Each Co-Permittee shall:
  - (a) Comply with the requirements of this Order and any modifications thereto;
  - (b) Participate in intra-agency coordination (e.g., Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and Recreation, and others) necessary to successfully implement the provisions of this Order;
  - (c) Report, in addition to the Annual Budget Summary, any supplemental dedicated budgets for the same categories;
  - (d) Participate in the Sonoma County Environmental Crimes Task Force, when possible;
  - (e) Provide technical and administrative support for committees that will be organized to implement this Order and its requirements;
  - (f) Evaluate, assess, and synthesize the results of the monitoring program and the effectiveness of the implementation of BMPs; and
  - (g) Provide personnel and fiscal resources for the collection, processing and submittal to the Regional Water Board of monitoring and annual reports, and summaries of other reports required under this Order.

## **E. SPECIAL PROVISIONS**

### **PART 1 – General Requirements**

1. This Order and the provisions herein are intended to assist the City of Santa Rosa, County of Sonoma, and the Sonoma County Water Agency in developing, implementing and achieving a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP and achieve WQS.
2. The current Management Plan and updates, when developed by the Co-Permittees and approved by the Regional Water Board, after public review, are incorporated into this Order and are fully enforceable.
3. **Best Management Practice Program Substitution**
  - (a) The Regional Water Board Executive Officer may approve any specific BMP program substitution upon petition by a Co-Permittee(s) and after public notice, if the Co-Permittee can document that:
    - (1) The proposed alternative BMP program will meet or exceed the objective of the original BMP program in the reduction of storm water pollutants;
    - (2) The fiscal burden of the original BMP program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and
    - (3) The proposed alternative BMP program will be implemented within a similar period of time.
4. **Best Management Practice Substitution**
  - (a) The Co-Permittees may substitute a site-specific BMP and will keep records of any site-specific BMP substitution and document the reasoning for the substitution, including a demonstration that:
    - (1) The proposed alternative BMP will meet or exceed the objective of the original BMP in the reduction of storm water pollutants;
    - (2) The fiscal burden of the original BMP is greater than the proposed alternative and does not achieve a greater improvement in storm water quality; and
    - (3) The proposed alternative BMP will be implemented within a similar period of time.

### **PART 2 – Public Information and Participation Program (PIPP)**

1. The Co-Permittees shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in

this section. The Co-Permittees shall be responsible for developing and implementing the PIPP, and shall coordinate with other entities (such as Sonoma State University and the Santa Rosa Junior College) to implement specific 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 behavior of target audiences regarding waste disposal and activities that generate storm water pollution by encouraging implementation of appropriate solutions;
- (c) To involve and engage communities in Sonoma County to participate in mitigating the impacts of storm water pollution; and
- (d) To regularly review PIPP program elements to ensure that efforts are effective in educating the public and changing behavior. At a minimum, the Co-Permittees shall devote one regular MS4 Co-Permittee meeting per year to discuss PIPP program effectiveness.

## 2. Residential Program

### (a) "No Dumping" Message

- (1) Each Co-Permittee shall label all storm drain inlets in parking lots, gutters and streets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping shall be posted at selected designated public access points to creeks, and channels where dumping has occurred. Signage and storm drain messages shall be legible and maintained. The Co-Permittees shall label 20 percent of all unlabeled storm drain inlets each year, with a goal of 100 percent of all storm drain inlets to be labeled by October 1, 2013.

### (b) Public Reporting

- (1) Co-Permittees shall include contact information in outreach efforts for reporting clogged storm drain inlets and illicit discharges/dumping, faded or missing storm drain inlet labels, and general storm water management information. This information must be updated by July 1st of each year in public information media, such as the government pages of the telephone book, and internet web sites. Each Co-Permittee is responsible for keeping current, updated contact information in an easily accessible page on their web sites.

### (c) Outreach and Education

- (1) Co-Permittees shall implement the following activities:
  - (A) Conduct a storm water pollution prevention advertising campaign;

- (B) Conduct storm water pollution prevention public service announcements;
  - (C) Distribute storm water pollution prevention public education materials to:
    - (i) Automotive parts stores;
    - (ii) Home improvement centers, lumber yards, hardware stores, landscape supply stores, nurseries, and stores where fertilizers and pesticides are sold;
    - (iii) Pet shops and feed stores; and
    - (iv) Local fairs and events.
  - (D) Public education materials shall include, but are not limited to information on the proper disposal, storage, and use of:
    - (i) Vehicle waste fluids;
    - (ii) Household waste materials;
    - (iii) Construction waste materials;
    - (iv) Pesticides and fertilizers (including integrated pest management practices-IPM);
    - (v) Litter;
    - (vi) Green waste (including lawn clippings and leaves); and
    - (vii) Animal wastes.
  - (E) Using previously conducted public survey results, work with existing local watershed groups, or organize watershed citizen advisory groups or committees to educate the public about storm water pollution; and
  - (F) Organize or participate in events targeted to residents.
- (2) The Co-Permittees shall develop a strategy to educate Spanish-speaking communities through culturally effective methods. Details of this strategy should be incorporated into the PIPP, and implemented, no later than October 1, 2010;
  - (3) Each Co-Permittee shall continue the existing outreach program to residents on proper lawn care and water conservation practices;
  - (4) Each Co-Permittee shall conduct educational activities within its jurisdiction and participate in countywide events;
  - (5) The Co-Permittees shall make impressions on at least 25% of the permanent population within the permit area per year relating to storm water quality, with a minimum of (15%) impressions via newspaper, local TV access, billboard, local radio, internet access, and/or other advertising techniques or media;
  - (6) The Co-Permittees, shall provide schools with materials, including, but not limited to, videos, live presentations, and other

information necessary to educate a minimum of 40% of all school children (K-12) every 2 years on storm water pollution;

(7) The Co-Permittees shall develop and implement a strategy to measure the effectiveness of school educational programs. The protocol shall include assessment of students' knowledge of the adverse impacts of storm water pollution and its solutions before and after educational programs are conducted. The strategy shall be implemented no later than September 1, 2011; and

(8) The Co-Permittees shall develop and implement a behavioral change assessment strategy no later than October 1, 2012, to assess whether the PIPP is demonstrably effective in changing the behavior of the public.

(d) Pollutant-Specific Outreach

(1) The Co-Permittees shall coordinate to develop outreach programs that focus on watershed-specific pollutants identified in Table 1 in the Fact Sheet (Impaired Water Bodies) no later than October 1, 2011.

### 3. Businesses Program

(a) Corporate Outreach

(1) The Co-Permittees shall work with other regional or statewide agencies and associations such as the California Storm Water Quality Association (CASQA), to develop and implement a Corporate Outreach program to educate and inform corporate and/or franchise operators and local facility managers about storm water regulations and BMPs. The program shall target a minimum of four retail gasoline outlets (RGOs) franchisers and cover a minimum of 80% of RGO franchisees in the county, four retail automotive parts franchisers, two home improvement center franchisers and six restaurant franchisers. Corporate Outreach for all target facilities shall be conducted not less than once during the term of this Order, with the first outreach contact to begin no later than October 1, 2013. At a minimum, this program shall include:

- (A) Meetings with corporate management and/or facility operators and local facility managers to explain storm water regulations; and
- (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.

(b) Business Assistance Program

(1) The Co-Permittees shall implement a Business Assistance Program to provide technical resource assistance to small

businesses to reduce the discharge of pollutants in storm water. The Co-Permittees shall develop a Business Assistance Program no later than April 1, 2012. The Program shall include:

- (A) A website with telephone and e-mail contact information to arrange for staff consultation regarding the responsibilities of businesses to reduce the discharge of pollutants, pollution prevention methods and BMPs, and available guidance material; and
- (B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

### **PART 3 – Industrial/Commercial Facilities Program**

1. Using local ordinances, each Co-Permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water. Except where specified otherwise in this Order, pollutant reduction and control measures may include structural treatment control, source control BMPs, and operation and maintenance procedures, which may be applied before, during, and/or after pollutant generating activities. At a minimum, the Industrial/Commercial Facilities Program shall include requirements to:
  - (a) Identify applicable facilities;
  - (b) Inspect;
  - (c) Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water;
  - (d) Refer non-filers under the Industrial General Permit to the Regional Water Board; and
  - (e) Track local compliance and inspections.
2. Inventory of Critical Sources
  - (a) Each Co-Permittee shall maintain a database or watershed-based inventory of facilities within its jurisdiction that are critical sources of storm water pollution. At a minimum, the following critical sources to be tracked are summarized below.
    - (1) Commercial Facilities:
      - (A) Restaurants;
      - (B) Automotive service facilities including those in dealerships;
      - (C) Retail gasoline outlets - RGOs;

- (D) Nurseries<sup>6</sup> and landscape material yards;
  - (E) Facilities that store, use or transport pre-production plastic pellets (nurdles) once information is observed by or provided to the Co-Permittees that the facility is discharging or threatening to discharge these materials to the MS4;
  - (F) Automotive dealerships, rental businesses, and other businesses where commercial car washing occurs; and
  - (G) Other commercial facilities specifically identified by the Co-Permittees or Regional Water Board staff found to be discharging nutrients or sediments to the MS4 in levels that may result in a condition of pollution or nuisance.
- (b) Each Co-Permittee shall include in its inventory of critical sources the following minimum fields of information for each industrial and commercial facility:
- (1) Name of facility and name and contact information of owner/operator;
  - (2) Address of facility; and
  - (3) A narrative description, including Standard Industrial Classification (SIC) system/North American Industry Classification System (NAICS) codes, that best describe the industrial activities performed and principal products used at each facility, and status of exposure to storm water.
- (c) The Regional Water Board recommends that Co-Permittees include additional fields of information, such as material usage and/or industrial output, and discrepancies between SIC system/NAICS code designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Regional Water Board recommends the use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.
- (d) Each Co-Permittee shall update its inventory of critical sources at least annually. The update may 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 hook-up permits, and similar information).

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<sup>6</sup> For the implementation of this Order, commercial nurseries are nurseries that sell plants or planting and gardening products and have built in drains or other conveyance systems to the MS4. Nurseries which drain to the sewer are not included. Businesses that sell plants, or planting and gardening products but do not have built in storm drains, but may discharge non-storm water flows to the MS4 drains in the parking lot or street, are not included and shall be addressed using Part 10 – Illicit Connections and Illicit Discharges Elimination Program.

3. Inspect Critical Sources

(a) Commercial Facilities

(1) Level of inspections: Each Co-Permittee shall inspect all facilities identified in Part 3 twice during the five-year term of the Order, provided that the first inspection occurs no later than October 1, 2012. A minimum interval of six months between the first and the second mandatory compliance inspection is required. In addition, each Co-Permittee shall implement the activities outlined in sections (b), (c), (d), and (e), below. At each facility, inspectors shall verify that the operator is implementing source control BMPs as needed. The Co-Permittees shall require implementation of additional BMPs and controls as needed to reduce pollutants in storm water runoff that may be causing or contributing to exceedances of WQS in CWA section 303(d) listed impaired water bodies (see Table 1 in the Fact Sheet). Likewise, for those BMPs that are not adequate to achieve WQS, Co-Permittees may require additional site-specific controls. Written inspection reports shall be available for Regional Water Board review, if requested.

(b) Restaurants

(1) Level of inspections: Each Co-Permittee, in cooperation with its appropriate department (such as health or public works), shall inspect all restaurants within its jurisdiction to confirm that storm water BMPs are being effectively implemented in compliance with State law, and County and municipal ordinances. Typical BMPs in Table 4 (BMPs at Restaurants) shall be implemented, unless the pollutant generating activity does not occur.

Table 4. BMPs at Restaurants

Pollutant-Generating Activity	BMP Narrative Description	2003 <sup>7</sup> California Stormwater BMP Handbook Industrial and Commercial BMP Identification No.
Hazardous Materials/Waste Storage, Handling and Disposal	Distribution of educational materials on storm water pollution prevention practices to employees when necessary	Comply with local municipal requirements
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges	SC-10

<sup>7</sup> Including future updates and revisions.

<b>Pollutant-Generating Activity</b>	<b>BMP Narrative Description</b>	<b>2003<sup>7</sup> California Stormwater BMP Handbook Industrial and Commercial BMP Identification No.</b>
Accidental Spills/Leaks	Implementation of effective spills/leaks prevention and response procedures	SC-11
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/handling practices and appropriate control measures	SC-34
Parking/Storage Area Maintenance	Implementation of effective parking/storage area designs and housekeeping/maintenance practices	SC-43
Storm Water Conveyance System Maintenance	Implementation of proper conveyance system operation and maintenance protocols	SC-44

(c) Automotive Service Facilities

- (1) Level of Inspection: Each Co-Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that typical BMPs in Table 5 (BMPs at Automotive Service Facilities) are being implemented, unless the pollutant generating activity does not occur.

Table 5. BMPs at Automotive Service Facilities

<b>Pollutant-Generating Activity</b>	<b>BMP Narrative Description</b>	<b>2003<sup>8</sup> California Stormwater BMP Handbook Industrial and Commercial BMP Identification No.</b>
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges	SC-10

<sup>8</sup> Including future updates and revisions.

<b>Pollutant-Generating Activity</b>	<b>BMP Narrative Description</b>	<b>2003<sup>8</sup> California Stormwater BMP Handbook Industrial and Commercial BMP Identification No.</b>
Accidental Spills/Leaks	Implementation of effective spills/leaks prevention and response procedures	SC-11
Vehicle/Equipment Fueling	Implementation of effective fueling source control devices and practices	SC-20
Vehicle/Equipment Cleaning	Implementation of effective equipment/vehicle cleaning practices and appropriate wash water management practices	SC-21
Vehicle/Equipment Repair	Implementation of effective vehicle/equipment repair practices and source control devices	SC-22
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices	SC-31
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/handling practices and appropriate control measures	SC-34
Parking/Storage Area Maintenance	Implementation of effective parking/storage area designs and housekeeping/maintenance practices	SC-43
Storm Water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols	SC-44

- (d) Retail Gasoline Outlets and Automotive Dealerships
- (1) Level of Inspections: Each Co-Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 6 (BMPs at Retail

Gasoline Outlets) are being implemented, unless the pollutant generating activity does not occur.

Table 6. BMPs at Retail Gasoline Outlets

<b>Pollutant-Generating Activity</b>	<b>BMP Narrative Description</b>	<b>2003<sup>9</sup> California Stormwater BMP Handbook Industrial and Commercial BMP Identification No.</b>
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges	SC-10
Accidental Spills/Leaks	Implementation of effective spills/leaks prevention and response procedures	SC-11
Vehicle/Equipment Fueling	Implementation of effective fueling source control devices and practices	SC-20
Vehicle/Equipment Cleaning	Implementation of effective wash water control devices	SC-21
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/handling practices and appropriate control measures	SC-34
Building and Grounds Maintenance	Implementation of effective facility maintenance practices	SC-41
Parking/Storage Area Maintenance	Implementation of effective parking/storage area designs and housekeeping/maintenance practices	SC-43

(e) Commercial Nurseries, Landscape Bulk Material Yards, and Nursery Centers

- (1) Level of Inspection: Each Co-Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that typical BMPs in Table 7 (BMPs at Nurseries, Landscape Bulk Material Yards, and Nursery Centers)

<sup>9</sup> Including future updates and revisions.