

California Regional Water Quality Control Board, San Diego Region Regional MS4 Permit Focused Meeting

Meeting Notes

Date	Location	Agenda Topics
8/22/2012 Start time: 9:30 AM End time: 3:30 PM	City of Vista Community Room 200 Civic Center Drive Vista, CA 92084	• Announcements from Regional Board Staff • Watershed and Jurisdictional Planning and Implementation • Ground Rules for Effective Focused Meetings • Audience Input • Jurisdictional Implementation • Design and Performance Standards, and Alternative Compliance • Other Topics/Audience Comments • Next Steps

I. Introductions

Table participants introduced themselves. Lewis Michaelson (Facilitator) ensured the appropriate representatives were at the table, per the June 20, 2012, San Diego Regional Water Quality Control Board (SD RWQCB) Notice.

San Diego County Copermittees (5): Jon Van Rhyn (County of San Diego), Stephanie Bauer (Port of San Diego), Erik Steenblock (City of Encinitas), Helen Davis (City of Santee), Ruth Kolb (City of San Diego), Sumer Hasenin* (City of San Diego), Jennifer Nichols Kearns* (City of San Diego), Christine Sloan* (County of San Diego), Julie Precopio* (City of Santee), Joe Kuhn* (City of La Mesa), Billy Walker* (City of Oceanside) **Indicates representatives rotated during the meeting.*

Orange County Copermittees (5): Grant Sharp (Orange County Flood Control District), Chris Crompton (County of Orange), Ziad Mazboudi (City of San Juan Capistrano), Nancy Palmer (City of Laguna Niguel), Daniel Apt (County of Orange)

Riverside County Copermittees (3): Claudio Padres (Riverside County Flood Control District), Bob Collacott (Riverside County Flood Control District), Aldo Licitra (City of Temecula)

Environmental Community (3): Colin Kelly (Orange County Coastkeeper), Jill Witkowski (San Diego Coastkeeper), Mike Beanan (South Laguna Civic Association and Laguna Bluebelt), Michael Hazzard* (Clean Water Now! Coalition), Penny Elia* (Sierra Club)
**Indicates representatives rotated during the meeting.*

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Development/Business Community (3): Dennis Bowling (APWA), Ed Othmer (Industrial Environmental Association), Tory Walker (BIA), Wayne Rosenbaum* (BIA), Mike McSweeney* (BIA), Mark Grey* (BIA), Shawn Weeden* (Geocon), Laura Coley Eisenberg* (Rancho Mission Viejo) **Indicates representatives rotated during the meeting.*

U.S. Environmental Protection Agency (US EPA) (1): Cindy Lin

San Diego Water Board Permit Team: David Barker, Wayne Chiu, Laurie Walsh, Eric Becker

II. Announcements from Regional Water Quality Control Board Staff

David Barker (RWQCB) announced that the date for the hydromodification meeting has been set for August 30, 2012, and will be held at 202 C Street in San Diego. A notice has been sent out, and another notice should be sent out tomorrow. Regional Water Quality Control Board Staff will be attending.

David Barker (RWQCB) informed the group that the RWQCB Counsel expects to respond by September 5 to the letter from Orange County regarding the legal authority of the RWQCB to adopt a regional MS4 permit and concerns about the viability of the Reports of Waste Discharge for Riverside and Orange Counties.

David Barker (RWQCB) also provided an update on the potential meetings between RWQCB Counsel and Copermittee Counsel. The RWQCB Counsel did request a list of issues for discussion prior to setting up a meeting with 5 or 6 attorneys representing the Copermittees. In mid-August, the Copermittees' Counsel advised RWQCB Counsel that they have delayed submitting the summarized list due to pressing demands of assisting with focused meeting concerns. As this process grows to a close and the administrative draft tentative order is finalized, the Copermittees' Counsel has advised that they will submit their written list of issues and anticipate meetings with RWQCB Counsel during public review of the finalized draft permit.

Eric Becker (RWQCB) provided brief remarks on some of the points raised at the last focused meeting that are resonating with the RWQCB staff.

1. Visual observations can be used as part of the monitoring; monitoring is not limited to water quality sampling.
2. Prioritization of and eliminating non-stormwater discharges based on transitional versus persistent non-stormwater flows.
3. Including source identification, BMP effectiveness, and special studies in the monitoring program to better integrate the monitoring assessment requirements with and to better support the adaptive management approach of the Water Quality Improvement Plans
4. Using a combination of modeling, statistical, and empirical data instead of just empirical data to inform the adaptive management process of the Water Quality Improvement Plans.

5. Putting in requirements that do some kind of monitoring pre-Water Quality Improvement Plan to have a better product once a Water Quality Improvement Plan is developed.

III. Watershed and Jurisdictional Planning and Implementation

Wayne Chiu (RWQCB) explained that today's overarching topic is planning and implementation. Key to that is having a plan in place to be implemented. The first topic is the watershed planning and how that works with the jurisdictional planning. Starting with the Water Quality Improvement Plan, the key component of the Water Quality Improvement Plan is the strategy section. Within that section is where the Copermittees would lay out the strategies they would implement in a watershed management area within their jurisdiction to improve the quality of their receiving waters and discharges. Within that section is laid out structural and non-structural BMPs, but also introduced is a concept that is trying to get at the existing problems and implement strategies to address existing problems (e.g., retrofitting in areas of existing development, implementing stream or habitat rehabilitation or restoration type projects to restore the chemical, physical, and biological integrity of receiving waters), outlining what jurisdictional program elements might be implemented to achieve increased quality of waters within our region. That would lay the foundation, then the jurisdictional programs would tie into those strategies and for each Copermittee they would customize those strategies for their jurisdictions depending on the primary sources, stressors, or issues that they've identified as areas to address within the jurisdiction.

At this point, the RWQCB is trying to figure out how to best integrate those elements together, but also have the adaptive management component closely tied to the programs and plans so that modifications can be made to a Water Quality Improvement Plan and jurisdictional programs in a much more fluid way if possible. The RWQCB is looking for feedback and more discussion.

In the planning area, in terms of strategies, the RWQCB would like to maintain the retrofitting of existing development and doing rehabilitation of streams and habitats as much as possible. The RWQCB believes the biggest problems that are to be faced in the watersheds already exist; therefore, the Copermittees need to start trying to address existing areas rather than focusing all or most efforts on new or redevelopment projects.

Ziad Mazboudi (City of San Juan Capistrano) asked how habitat restoration links back to water quality improvement and how to evaluate for water quality benefits.

Wayne Chiu (RWQCB) responded that the RWQCB is primarily looking at restoring and maintaining the physical, chemical, and biological integrity of the nations' waters, per the Clean Water Act, which essentially boils down to water quality standards. Generally, there are beneficial uses within each receiving water, some are supported and some are impaired. The RWQCB is looking to restore the impairments to support a beneficial use.

Jon Van Rhyn (County of San Diego) spoke to the relationship between the Water Quality Improvement Plans and the jurisdictional programs. The San Diego Copermittees

would like to see somewhere in the permit language in both Provision B and Provision E references back and forth clarifying the relationship with the elements. The goal is to provide jurisdictional flexibility and watershed adaptability in reaching the goals of the Water Quality Improvement Plans. Furthermore, Provision E needs to clarify that if a particular minimum must be met (e.g., inspection frequencies) that the application of that minimum is on a jurisdictional basis and the discretion lies with the Copermittees across the watersheds; not such that each minimum must be met across each watershed. It should be clarified that Copermittees would have that discretion.

Jon Van Rhyn (County of San Diego) also spoke to how programs are modified over time, as is intended with adaptive management. The permit needs language to clarify that if there are minimums, there would be the opportunity to modify those minimums with justification. There should be a mechanism to make a proposal to the RWQCB for review by the RWQCB and public to be considered for an adaptation away from what is currently a specific minimum under Provision E. That mechanism does not currently exist in the administrative draft permit.

Laurie Walsh (RWQCB) acknowledged the recommendation to include language for adaptation below prescribed minimums, but expressed concern about determining compliance, and asked for NGO input on the issue.

Jill Witkowski (SD Coastkeeper) expressed understanding at the jurisdictions' desires for as much flexibility as possible, but also expressed concern at determining compliance when minimums can be changed. With some jurisdictions, such as the County of San Diego, in multiple watersheds, there should be a backstop to ensure that no watershed is orphaned due to priorities or focuses in other watersheds. Jill does like the idea that if there is any sort of modification that it would be done with justification and thereby providing transparency. The NGOs are reasonable and want to get clean water with the least amount of money spent; however, it is unnerving when decisions are made without justification. A suggested backstop to the process may be requiring RWQCB, NGO, and other stakeholder input and review on any proposed modifications below minimum requirements to ensure no watersheds are being orphaned and to ensure that the modifications are still proceeding toward improving water quality.

Erik Steenblock (City of Encinitas) stated that the Water Quality Improvement Plan dynamic is something that all will review and have the opportunity to weigh in on, including NGOs, regulators, and other stakeholders. It also needs to be recognized that while jurisdictions are seeking this flexibility, they still have hotlines, complaint responses, monitoring, IDDE programs, and other programs that will continue to inform the jurisdictions on all watersheds.

Colin Kelly (OC Coastkeeper) echoed Jill's concerns about reducing minimum requirements, especially with respect to sampling. Orange County and Inland Empire Coastkeeper do not want to be stuck with sampling results from 2012 when it is 2014 or 2015. Just because areas are clean or acceptable now does not mean that they will be clean or acceptable in the future. Those areas still need to be monitored. That being said,

Coastkeeper is not against flexibility, and may be willing to look into it when discussing it in more details.

Mike Beanan (South Laguna Civic Association and Laguna Bluebelt) encouraged Copermittees to partner early with NGOs when developing ideas; this would promote transparency, and NGOs have access to resources that could help advance these modifications. Mike would also like to see any modifications to plans actually be done to change efforts to significantly above the minimum, not just meet the bare minimum required by the permit. He also encouraged Copermittees to expand their awareness to the whole watershed, not just the portion of the watershed within their jurisdiction.

Wayne Chiu (RWQCB) acknowledged the NGOs concern about orphaned watersheds and explained that is why the RWQCB has been stressing jurisdictional accountability and trying to incorporate that into the Water Quality Improvement Plans and monitoring, which should translate through implementation of the jurisdictional programs. The Water Quality Improvement Plans should be robust enough and include enough information for an environmental group or a regulator to look at the plan and then look at what is being implemented and determine if that is sufficient, if that is trying to improve things, or if there is still potential for improvement of the Water Quality Improvement Plan, which would then in turn improve the jurisdictional programs. This is where it is incumbent upon the NGOs and the regulators to become more familiar with what the jurisdictions are actually doing within their programs. This is an area where there currently is a lot to be desired as, now, regulators are essentially responding to problems rather than trying to support more proactive solutions by the jurisdictions. NGOs can also lend their support to the jurisdictions in many ways; however, the jurisdictions need to be open to that support.

Jill Witkowski (SD Coastkeeper) stated that, from a practical standpoint, Coastkeeper would like to see a clear explanation of jurisdictional activities cross-referenced by page number to the Water Quality Improvement Plans so that if there are changes in a Jurisdictional Runoff Management Plan, then it cross references back to the Water Quality Improvement Plan and there is a clear connection between the two plans.

Erik Steenblock (City of Encinitas) agreed with Jill's recommendation and stated that the Copermittees will be submitting language to that intent. The Copermittees would also like to have language in the existing development sections that clearly point back to the Water Quality Improvement Plans.

Bob Collacott (Riverside) questioned RWQCB staff, particularly management (David Barker), regarding retrofit and stream rehabilitation comments. RWQCB Staff has described this as a high priority. Bob questioned if that is management's perspective as well. Bob expects a lot of thought into this and a clear expectation as to how Copermittees are to comply with these requirements. For example, how are the projects to be funded and how will permit compliance be measured?

David Barker (RWQCB) took note of Bob's questions and deferred the response to RWQCB Staff. Wayne Chiu (RWQCB) explained that the requirements in the permit as they are now is that strategies within a Water Quality Improvement Plan include retrofit where it is necessary to improve water quality and stream rehabilitation where it is necessary to

restore habitats to support water quality. It is incumbent upon the jurisdiction to find those opportunities and figure out if it is necessary. If a jurisdiction determines retrofitting is not viable, then that would be reflected within the Water Quality Improvement Plan. The Water Quality Improvement Plan would then go through public and agency review; however, the idea is that existing development is causing a lot of problems and retrofitting at some level would be feasible. Wayne explained that retrofitting may need a better definition in the permit, as it does not necessarily mean large capital improvement projects to meet the 85th percentile LID retention and hydromodification requirements. Retrofitting could include simple things, such as disconnecting downspouts to connect them to pervious areas, using rain barrels, re-grading areas to include shallower slopes, converting impervious surfaces to pervious surfaces, etc. Retrofitting would include anything that would slow runoff and capture pollutants before getting discharged into receiving waters. Based on this definition, there are plenty of areas within existing development that are viable for retrofitting. Wayne acknowledged that feasibility and funding are part of the question. Wayne continued that there are several areas of the administrative draft permit that mention retrofit and channel rehabilitation and those parts actually fit together. In terms of compliance, compliance is identifying those projects and implementing those projects at some point in the future, according to the Water Quality Improvement Plan. The RWQCB wants Water Quality Improvement Plans to evolve over time and ultimately produce a sustainably configured watershed management area where development can occur in a sustainable way that will still support water quality and meet all the requirements of the Clean Water Act.

Helen Davies (City of Santee) explained that the San Diego County Copermittees have spent a lot of time discussing retrofit and channel rehabilitation and believe that retrofit and channel rehabilitation should be counted as one of the tools when developing a water quality improvement strategy. Helen referred to slides 9 and 10 of the handout prepared by the San Diego County Copermittees. She further explained that retrofit should be focused in those areas where a need has been identified and it should be consistent with the Water Quality Improvement Plan. The San Diego County Copermittees do recommend that retrofit be separated from channel rehabilitation. Putting a structure on an MS4 or adding a rain barrel to a property (retrofit) is much easier than channel rehabilitation. Channel rehabilitation requires a long time and investment in different permits and pulling together of finances. Both, however, should be informed by the Water Quality Improvement Plan and the strategies in it.

Mike Hazzard (Clean Water Now! Coalition) reminded the stakeholders that when talking about channel improvement and water quality improvement, the endangered species in these areas also need to be kept in mind. The endangered species need to be re-established in the creeks that have been degraded.

Wayne Chiu (RWQCB) agreed with Mike Hazzard; there are a lot of streams within the San Diego region that have been severely degraded or channelized and are no longer able to support native species. Wayne explained that is why channel/stream and habitat rehabilitation are in the Water Quality Improvement Plans and existing development requirements. The goal is to restore those degraded areas.

Wayne Chiu (RWQCB) stated that in terms of planning, the RWQCB is trying to provide a way to look at things in a more holistic way in a watershed. Traditionally, earlier permits have been focused on program implementation and the individual programs and each of those program elements have become siloed within the implementation of these permits so that the elements are not coordinated with each other. Development planning is not looking at what existing development or construction or IDDE is doing; every program seems to be an independent program and somehow all are working together but not actually coordinating. The Water Quality Improvement Plan is to provide that coordination among programs and among Copermittees within a watershed management area. That plan, with specific goals, targets, and schedules is to focus everybody's efforts in a certain direction. When talking about having a Water Quality Improvement Plan on a watershed scale, the RWQCB is trying to get everyone to look at things on a watershed scale; to see how each piece fits into improving that watershed. The RWQCB is trying to get feedback and understand how to better define and require this in the permit. The RWQCB is trying to understand stakeholders' needs for planning. The RWQCB also understands that these plans are very powerful tools for Copermittees as stormwater managers to request resources and funding for these programs. The RWQCB is also trying to provide a better tool that allows Copermittees to rationalize to the decision makers the needs for these programs and elements that need to be implemented to improve water quality. The RWQCB needs a better understanding of how to provide a better tool for the Copermittees.

Erik Steenblock (City of Encinitas) responded that is exactly what the Copermittees are trying to provide. In the existing development section of the administrative draft permit, the Copermittees perceive some constraints to the strategic planning process. Erik referred to slide 3 of the handout prepared by the San Diego Copermittees and explained that one area that needs to be refined more is the broad definition of sources when talking about existing development. In the current administrative draft, a source is something that generates a pollutant load. To help support the strategic process, that definition needs to be more constrained to allow Copermittees to define sources and create better inventories and priorities. Erik referred to slide 3 (shown on the next page) for more detailed discussion points and recommendations.

Inventory Priorities

Discussion Point

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| 1: Recognition of watershed priorities within jurisdictional requirements (§II.E.5.a(12), §II.E.5.d(1), §II.E.5.d(3)) |
| 2: Broad definition of sources “may potentially generate a pollutant load” (§II.E.5.a) |
| 3: Scope of inventory requirements (MTS, Phase II MS4s, Mobile Home Parks) (§II.E.5.a) |
| 4: Residential sources are fundamentally different from Industrial, Commercial, and Municipal (§II.E.5.a, §II.E.5.d) |

Recommendation

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| 1: Programs should emphasize watershed priorities (WQIP) and establish jurisdictional baselines (JRMP) |
| 2: Modify language to focus resources on highest priorities (watershed and jurisdictional) |
| 3: Limit to facilities that Copermittees have the authority to regulate |
| 4: Separate inventory and prioritize residential areas by Residential Management Areas (RMA); see slide 5 |

Existing Development

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Colin Kelly (OC Coastkeeper) questioned that the broad definition of sources as anything that may potentially generate a pollutant load needs to be refined to a more restrictive definition. Some of the issues in the Inland Empire and in Riverside are areas that have specifically high phosphorus levels coming from residential communities. Coastkeeper understands the source: fertilization and over-watering of lawns at the same time each year. Coastkeeper also understands that while it may not be a high priority in a specific watershed, it can reasonably anticipate that municipalities could send door hangers or do other education outreach to deal with a pollutant that might not be classified as high priority. By having the broader definition, it might actually be more inclusive of the types of water quality and impairments that are seen on the ground.

Colin Kelly (OC Coastkeeper) agreed with the fourth discussion point (residential sources fundamentally different from industrial, commercial, and municipal sources). Colin asked how the Copermittees would envision creating a separate inventory and how creating a different inventory would be cost effective.

Ruth Kolb (City of San Diego) stated that the San Diego County Copermittees see residential as specifically separate from industrial, commercial, and municipal facilities. The San Diego County Copermittees believe residential sources should have its own subsection because the people being dealt with are drastically different than a business. Residences do

not have mandatory training or reprimands for not doing the correct thing. They definitely need a separate subsection. One of the things the San Diego County Copermittees would like to develop are Residential Management Areas. The Residential Management Areas could be defined by drainage area, by homeowners' association, by communities, etc. The definition of the Residential Management Areas would depend on the municipality and what the priorities are within the Water Quality Improvement Plan. The Water Quality Improvement Plan, going through the public review process, would set out priorities. The Jurisdictional Runoff Management Plan would set out the specific plan of how to address Residential Management Areas within that specific watershed management area. There may be different approaches in different areas. Education is a major component of this and needs to be included in this because it has been found to be one of the most effective ways of reaching out to the general public. These Residential Management Areas would compose the residential inventory, instead of individual residences. It is not the best use of resources to investigate individual residences; it is, however, an efficient use of resources to investigate Residential Management Areas. The recommendation would be to have a higher required inspection amount of Residential Management Areas than the 20% required for industrial, commercial, and municipal sources. The San Diego County Copermittees would also like flexibility to have scalability since HOAs and communities may vary in size between jurisdictions. This would give the jurisdiction the ability to set their own programs based on their own needs. Door hangers may be appropriate in January or February before fertilizing. Code enforcement may be more necessary or more effective at other times or in different areas. The jurisdictions would be able to determine the most appropriate actions based on their unique Residential Management Areas needs. The jurisdictions, of course, would have to follow the priorities and requirements set forth in the Water Quality Improvement Plans, approved through the public process. Having a residential inventory with Residential Management Areas is a new concept since permits in the past have only required inspections of complaints.

Helen Davies (City of Santee) also raised the specific permit requirement to inspect facilities (residences) within 6 months of change of ownership. This requirement appears to be written for industrial, commercial, and municipal properties, not residential. She further stressed the point that it would be more efficient to do Residential Management Areas than to try to manage or inventory residential sources on a parcel by parcel basis.

Jill Witkowski (SD Coastkeeper) agreed that Residential Management Areas are a good idea. This would lead to neighborhood patrols and neighborhood-based programs tailored to the neighborhoods. She also agreed that the six month inspection requirement makes sense for industrial, commercial, and municipal sources, but not residential; however, for residential it could be a six month inspection requirement when there is a change of leadership for the HOA. Building in Residential Management Areas into the permit gives great opportunity for San Diego Coastkeeper to partner on special studies on a neighborhood scale. For residential areas, education is a big component to begin with. They would like to see more aggressive education and outreach, followed by a grace period for improvement, and then followed by inspections and enforcement.

Jill Witkowski (SD Coastkeeper) also addressed the San Diego County Copermittees' recommendation #2 on slide 3 (modify language to focus resources on highest priorities (watershed and jurisdictional)). She echoed Colin Kelly's concerns that focusing on the highest priorities could be a problem. Jurisdictions and watersheds have incentives to not pick many priorities, but that doesn't mean there aren't problems to be fixed. Jill agrees there should be a better definition. Coastkeeper has gotten feedback from jurisdictions that the jurisdictions choose what goes in inventories in different ways. The source definition tends to be some place between the broad definition it is now and specific language such that there is more consistent language and inventories across jurisdictions.

Laurie Walsh (RWQCB) agreed that residential should be separate from industrial, commercial, and municipal. When creating the existing development section, the RWQCB took sections of the permit and combined them; the six month inspection requirement is for industrial, commercial, and municipal facilities, not residential.

Nancy Palmer (City of Laguna Niguel) informed the stakeholders that cities don't know when a property is sold; it is not something that is normally reported to the city. The cities may know when someone comes in for a permit to change something, but not when a property is sold. Nancy suggested that language be changed such that inspection is required a specific amount of time after something is changed by permit application.

Laurie Walsh (RWQCB) stated that the current language reads change in ownership "or a change in pollutant discharge" in that section.

Mike Beanan (South Laguna Civic Association and Laguna Bluebelt) expressed that he likes the notion of paradigm shift and encouraged everyone to keep in the back of their mind the coastal receiving waters. This whole process seems to be disconnected from the ocean. Mike suggested that plume maps may help inland cities get more feedback and response to water quality improvement strategies. Plumes create algae blooms, red tides, and impact the kelp floors. Mike also stated there is beneficial reuse for some of this water, so it may be an opportunity to track the amount of water saving to cost factors and inform communities. That might be a motivating factor for changes in behavior.

Penny Alias (Sierra Club), in reference to discussion point 3 of slide 3 prepared by the San Diego County Copermittees, asked the Copermittees whether or not they had the authority to regulate mobile home parks.

Helen Davies (City of Santee) responded that the City of Santee has direct experience in trying to regulate mobile home parks and has case law that states the City has limited authority.

Wayne Chiu (RWQCB) explained that this MS4 permit can only have the authority to regulate the municipalities covered under the permit and the municipalities are required to have the legal authority to implement the requirements of the permit. Wayne is unsure of the case law that Helen referenced. If a jurisdiction has something within their jurisdiction and they have the legal authority to regulate that entity, parcel, etc., then they need to use their legal authority to stop discharges into their MS4. What is coming out of the mobile home park should fall within their legal authority.

Helen Davies (City of Santee) suggested that the more problematic areas that the jurisdictions do not have authority over should be regulated under Phase II permits.

Ziad Mazboudi (City of San Juan Capistrano) related the mobile home park issue to the issue of Caltrans dumping into the MS4. That is a State issue, not a city controllable issue. Other institutes are outside the City's jurisdiction but are under separate MS4 Phase II permits. Maybe the RWQCB should be enforcing Phase II more. With regard to mobile home parks, Ziad explained that the City of San Juan Capistrano does not review the mobile home parks, as that is the State's role, but if they are discharging into the MS4, the City does educate and work with them.

Chris Crompton (Orange County) affirmed that the Office of the State Architect does retain responsibility for mobile home parks as they are pre-manufactured homes, also hospitals and other facilities. Perhaps those being covered by Phase II permits would be appropriate. This issue has been raised before. This Phase I MS4 permit in itself is very siloed. Essentially, the retrofitting and the TMDL section need to be closer linked. The TMDL is the State's prioritization program. The TMDL program deals with these other kind of discharges that are not Phase I MS4s. Right now the permit is broken into separate areas.

Jon Van Rhyn (County of San Diego) revisited the source definition issue. Currently, the definition at the beginning of Provision E basically says that Copermittees have to inventory all existing development that may potentially generate a pollutant load to the MS4. He is concerned with how literal that can be interpreted. The San Diego County Copermittees do not have specific language recommendations yet, but would like to see some recognition that there is a determination of significance in what is and is not brought in. The San Diego County Copermittees are not after compartmentalizing sources into only those that are reflective of a Water Quality Improvement Plan or Water Quality Improvement Plan priorities. The San Diego County Copermittees recognize that the inventory requirements are based on requirements that need to be broader than the priorities laid out in the Water Quality Improvement Plans; however, they do not want to bring in new priorities based on new definitions.

Jon Van Rhyn (County of San Diego) revisited the change in ownership issue. The County of San Diego does not issue business licenses, they do not have individual stormwater permits for facilities, they do not have a process to inform the County that a facility has changed ownership or practices unless they inspect the facility and discover the changes.

Nancy Palmer (City of Laguna Niguel) informed the stakeholders that most of the cities in South Orange County also don't issue business licenses. If anyone makes a change to a building, they would get a building permit and that may notify the cities of a change.

Ed Othmer (IEA) stated that many times an industry may change within the boundary line of the business itself and those changes are captured through amendments and updates to SWPPPs. Having the jurisdictions inspect every 6 months because of changes in process or activities would not be productive of anybody's time.

Jill Witkowski (SD Coastkeeper) expressed a little alarm at the discussion of not knowing when businesses change, and she would think that would lead to wanting to include more areas in the inventories. She suggested the possibility of listing things like strip malls as one

item in an inventory instead of each individual store and suggested that inspection wouldn't be checking individual business but would be checking the strip mall as a whole. That would be one way of having more flexibility in what goes into the inventory but being broader in covering businesses. Jill suggested keeping the more rigorous inspections on industrial sections.

Claudio Padres (County of Riverside) observed that the discussion started out talking about planning, but keeps drifting to implementation because everyone seems to be saying the same things about the planning side. There are problems with the way the current administrative draft permit is tying the Copermittees' hands to do real planning to address identified water quality problems. It really is a paradigm shift where in the past it was the Jurisdictional Runoff Management Plans with prescriptive requirements; and some of that is still left in this administrative draft permit, where it needs to be changed to provide flexibility to do planning so that in turn Copermittees can move towards compliance based on that plan instead of widget counting.

Mike Hazzard (Clean Water Now! Coalition) shared that in South Orange County, on Aliso Creek, there has been a 13225 directive in place for over a decade. When the directive was issued, a monitoring plan was put together for the top of Aliso Creek where there is one outfall pipe. It was monitored 24/7 which tied directly into the water flow being monitored through the 13225 directive. Flow from that outfall pipe still exists. No residential monitoring has been put into place as far as abating the water quality as it enters the MS4. This is an easy thing to do, it's cost effective, and once the discharge is eliminated, monitoring can move down to the next pipe. This is something that should be enforced.

Erik Steenblock (City of Encinitas) agreed with Jill Witkowski's suggestion of listing things like strip malls as one item in an inventory instead of each individual store. This would allow jurisdictions to cast a broader net and Copermittees' programs would be much more efficient. The San Diego County Copermittees also recommend the annual inspection requirement for industrial, commercial, and municipal facilities to be set to a level equivalent to 20 percent of the entire industrial, commercial and municipal (ICM) inventory. This sets a floor when it comes to these obligations, letting the RWQCB measure the level of effort being put towards the ICM inspections. This also assumes that one facility would be identified as a single source, instead of each pollutant-generating activity within the facility being identified as a source. Erik explained that in practice, a lot of problems being identified are found outside, whether it be through a comprehensive inspection or a visual drive-by inspection. All of these inspections would point back to the Water Quality Improvement Plans. The San Diego County Copermittees have proposed a floor of 20 percent for industrial, commercial, and municipal facilities and separating residential sources from industrial, commercial, and municipal facilities. They have not proposed that the 20 percent obligation be applied to residential sources.

Ruth Kolb (City of San Diego) shared that the City has had success handling strip malls as one entity instead of separate, individual stores. The City has been able to work with the management company of the strip mall to ensure areas are maintained properly, especially

since common areas (e.g., common use dumpsters) are not under the authority of any particular tenant of the facility.

Ruth Kolb (City of San Diego) also commented, in reference to the Aliso Creek outfall, that in her experience it can't be assumed that residential areas are the source of non-storm water discharges even if they are the only existing development in a watershed area. The outfall may be receiving groundwater discharges; it can't be assumed that non-storm water discharges come only from existing development activities.

Mike Hazzard (Clean Water Now! Coalition) acknowledged Ruth's comment and responded that there are ways of determining residential runoff versus groundwater sources. Clean Water Now! Coalition has been pushing for that sampling to be done for a decade, and it has still not happened.

Colin Kelly (OC Coastkeeper) asked the San Diego County Copermittees how inspecting once every five years is different than inspecting 20 percent of the inventory annually.

Jon Van Rhyn (County of San Diego) replied that the current administrative draft permit requires inspection of every identified source within the permit cycle. By going back to 20 percent each year, it gives the Copermittees the discretion to apply inspections where the priorities are, rather than inspecting everything everywhere.

Colin Kelly (OC Coastkeeper) explained that Coastkeeper does get nervous hearing that certain facilities would never be inspected. It is hard to say what is going on at a facility if the Copermittees have never inspected it. This change in requirement would potentially be a problem for Coastkeeper to accept. Coastkeeper does like increased monitoring for those sources that need follow up or are high problems, but it is less reasonable to say that certain sources would not be inspected during the permit cycle.

Jon Van Rhyn (County of San Diego) acknowledged Coastkeeper's concerns. He explained that the other stakeholders would have to trust that the Copermittees' program is going to be directed at the places where there is the greatest number of problems. When the San Diego County Copermittees' proposed 20 percent, they were looking at the current highly inclusive definition of sources. The San Diego County Copermittees are not in agreement to inspect every source within the permit cycle, but are open to a different proposed baseline. Perhaps inspect sources based on priority levels but have other ways, such as education, to reach those sources that are not the highest priorities.

Colin Kelly (OC Coastkeeper) recommended at least one inspection of each source during the permit cycle, and then prioritization of resource allocation based on previous inspections. Coastkeeper believes a minimum of one inspection in five years is completely reasonable.

Ziad Mazboudi (City of San Juan Capistrano) commented that it is interesting to hear this discussion regarding inspection frequencies. On one hand, if a source looks fine on the outside, the San Diego County Copermittees are saying there is no need to inspect. On the other hand, Coastkeeper is saying that one inspection every five years is reasonable and may uncover problems not visual on the outside.

Helen Davies (City of Santee) suggested that Coastkeeper and the San Diego County Copermittees may be in agreement of sorts. Colin mentioned previous experience. Helen

shared that the Copermittees have been inspecting for ten years now, such that the Copermittees do know where the high priority problems are, which businesses need to be inspected more frequently, and where there tends to be turn over. When developing the Water Quality Improvement Plan, the Copermittees can justify why certain areas are being prioritized for inspection. Helen also shared that there are other program components that inform the Copermittees where there are problems, such as complaints. There are a number of ways to address this issue.

Chris Crompton (County of Orange) agreed with Helen Davies. Chris shared that they have spent ten to twenty years doing inspections. The adaptive program depends upon this information that has been collected from past inspections. The Copermittees do not need to inspect everything all the time.

Jill Witkowski (SD Coastkeeper) respectfully disagreed that the Copermittees would already know where the problems are. The Copermittees cannot know where the problems are five years from now, especially not being able to know when facilities change in ownership or activities. Coastkeeper is not asking for intensive inspections on all sources within the five-year permit cycle; a simple drive-by inspection may suffice for most sources. There is some common ground to be reached.

Colin Kelly (OC Coastkeeper) agreed with Jill that Copermittees cannot know if there are problems unless they do inspections. Colin shared that Coastkeeper is in the middle of reviewing MS4 compliance for Orange County and the Inland Empire and has found that different municipalities have different inspection reports, the photographs from the inspections are horrible, and no corrective actions were taken by the cities. Colin would like to believe that Copermittees know where the problems are, but he has seen no evidence to prove or verify those statements.

Ziad Mazboudi (City of San Juan Capistrano) explained that the City of San Juan Capistrano trains its staff in various departments (e.g., inspectors, code enforcement) to look for stormwater violations as they are conducting their normal duties. They perform drive-by inspections every day, and if they see something, they report it. Ziad stated that these drive-bys are different than a minimum inspection; however, if City staff sees problems, they are flagged and the problem is investigated. The City staff can't be everywhere all the time, but when they see a problem, they do go after it.

Grant Sharp (Orange County Flood Control District) stated that when he read the existing development section of the current administrative draft permit, he did not envision a plan so much as he envisioned a geodatabase of layer upon layer of data that starts with parcel data. He is hoping this permit will allow Copermittees the flexibility to create a water quality model based on all the data and then have the ability to calibrate the model with water quality data collected from the requirements of this permit. With the anticipated revisions to the Industrial General Stormwater Permit, the monitoring under that permit is going to change dramatically. Grant would hope to have flexibility to incorporate data from that effort into the Copermittees' model. Grant also mentioned that a structural BMP analysis tool has been developed and Orange County is on the cusp of having that for the entire County. Grant would hope to have the flexibility to use all that data, calibrate it with

other monitoring data from other sources and use that to prioritize where resources are focused. Grant pointed out that one thing not in this list are the post-construction BMPs. There is overlap because the Copermittees are required to implement post-construction BMPs. These are going to overlap with industrial, commercial, and municipal sources. Perhaps the focus should be on the performance of the post-construction BMPs and not what the site is doing. If the RWQCB staff has a different opinion on this section of the permit and how to provide the flexibility to use everything at the Copermittees' disposal, Grant would like to hear it.

Wayne Chiu (RWQCB) stated that everything Grant was trying to infer is exactly what the RWQCB wanted. Everything within the jurisdictional programs is intended to provide data to inform the Water Quality Improvement Plan, to then inform the jurisdictional programs on where they should be focusing their resources. The existing development section is the foundation of data to develop the Water Quality Improvement Plans. All Copermittees have inventories now and a set of inspection records and ideas of problem areas now; all that should be informing the Water Quality Improvement Plan and, as more data are collected, as the program is implemented, as inspection frequencies are tested in different areas, all that also informs the jurisdictional and watershed programs. That is the flexibility that the RWQCB is trying to incorporate. They are trying to get the Copermittees to have the best possible plan going forward and for the plan to become better over time.

Claudio Padres (County of Riverside) completely agrees with Grant in bringing in different sources of information to inform the jurisdictional and watershed programs. He also believes the points made by Jill and Colin are valid in that the Copermittees cannot know if there is a problem unless they do an inspection at some time. Taking it back to the larger picture of the Water Quality Improvement Plans, there is monitoring required under the Water Quality Improvement Plans. If certain areas are not inspected, then Copermittees can look at the monitoring data, assess the data through the Water Quality Improvement Plans, and determine how to deal with any new areas that are appearing with problems. There are checks and balances built into this administrative draft permit to identify new problem areas without having to extend resources in inappropriate areas.

Colin Kelly (OC Coastkeeper) acknowledged Claudio's points and, if the permit retained the level of monitoring that is in the current administrative draft, then it would address issues with inspections. When Copermittees talk about eliminating mandatory inspections at the same time as reducing monitoring, it is unclear how the Copermittees would be able to identify a sudden hot spot or a spike. It is the lack of information that is worrisome with both monitoring and inspections. If the Copermittees could shed light on the amount of inspections able to be done per inspector per day, that might help. Colin does not see that it is something so cost prohibitive that there should be a fundamental shift in government oversight.

Nancy Palmer (City of Laguna Niguel) shared that she is hearing inherent tension in trying to seek an appropriate balance between the priorities, the receiving waters to make sure nothing else is coming up, and resource checking. There is also a concern for orphaned areas. In particular, some of the stream restoration projects end up being orphaned because

they are not prioritized in other places and ownership or jurisdiction of these projects floats around. Nancy suggested the possibility of flexibility of watershed Copermittees collectively to, on a temporary basis, reallocate resources to something that is urgent to try to get some of those things done. Due to limited resources, there would have to be a tradeoff perhaps from the 20 percent inspections or monitoring or other resources to move those resources into stream rehabilitation. She is curious to hear feedback.

Mike Hazzard (Clean Water Now! Coalition) mentioned the endangered species found in many creeks. That it is important to establish natural fauna in the creeks and increase the benthic communities.

David Barker (RWQCB) asked Orange County and Riverside County if the San Diego County Copermittees' suggestion of a 20 percent inspection level would be roughly equivalent to each facility once every five years for Orange County and Riverside County.

Grant Sharp (Orange County Flood Control District) responded that he believes the answer would be yes. He clarified, however, that Orange County has had a residential program since 2003 and would not be looking at inventorying each family home as a separate facility; the permit allows inventory of areas, not houses, so Orange County would also look at using Residential Management Areas.

IV. Ground Rules for Effective Focused Meetings

As this is the last focused meeting, Lewis Michaelson (Facilitator) reviewed the ground rules for effective focused meetings: be concise, focus on new input, listen to understand, one person speaks at a time, and all perspectives are valued.

V. Audience Input

Comment: Mo Lahsaie (City of Oceanside) shared that in the City of Oceanside, as Homeowners' Associations are almost always managed by a company or business, the City looks at HOA areas as a commercial business area instead of a residential source.

Comment: Rudy Maldonado (Riverside County) shared that for the County, in the unincorporated areas, they also do not require business licenses. Owners must come in for a permit for a change in use or a building permit. There is no other mechanism to know of a change in use for all buildings.

Comment: Penny Elia (Sierra Club) re-stated Nancy Palmer's inquiry earlier of taking funds and working with other entities and other Copermittees to accomplish a project; if doing so could be traded off for the 20 percent inspection requirement every five years. She asked for more feedback on that topic.

VI. Jurisdictional Implementation

Jennifer Nichols Kearns (City of San Diego) referred the stakeholders to slide 7 of the handout prepared by the San Diego County Copermittees, entitled "Public Education/Outreach and Public Participation." The San Diego County Copermittees would like the ability to customize the development of their jurisdictional programs but would like

to tie them back into the Water Quality Improvement Plan and Water Quality Improvement Plan highest priorities. That does not mean that situations would be ignored if they were not on the list of priorities. For example, in the case of a spike in phosphorus, then the jurisdiction would find a way to address the spike even if phosphorus was not a high priority; addressing it may be through enforcement, education, or another method. In addition, education is specifically under the jurisdictional program requirements section of the administrative draft permit, where it should also be tied back into the Water Quality Improvement Plan section. Furthermore, evaluation and assessment are not explicitly discussed in Section E.7. The San Diego County Copermittees would like that added. It is currently in the larger portion of adaptive management strategy in the administrative draft permit, but it is not explicitly in the education section. As the Copermittees currently implement education and outreach, those programs would not be as successful as they are without evaluation and assessment. Evaluation and assessment allows Copermittees to look at their education and outreach program to see the level of effort versus effectiveness. The San Diego County Copermittees would like to be able to apply adaptive management to education and outreach. Finally, the administrative draft permit currently identifies only one target audience specifically in the education section – construction site operators. The Copermittees would like to focus jurisdictional and watershed resources on the target audiences that pose the highest threat. The San Diego County Copermittees would like the ability to write that into the Water Quality Improvement Plans that subsequently inform the Jurisdictional Runoff Management Plans. The San Diego County Copermittees fully plan on making sure that the residential section of the Water Quality Improvement Plans includes a heavy education and outreach component as they would like to continue their current effective efforts.

Jill Witkowski (SD Coastkeeper) agreed that education should be integrated throughout the permit and that assessment is important, too. On evaluation and assessment, Jill shared that Coastkeeper has seen reports that indicated the Copermittees handed out X number of calendars and therefore people are educated. Coastkeeper would like more behind the analysis, including a focus on analyzing that beliefs and attitudes are changed.

Wayne Chiu (RWQCB) stated that sharing resources and working cross-jurisdictionally is not a concept that the RWQCB opposes; however, the RWQCB would like to figure out how to allow that type of progressive thinking and use of those resources to be part of the requirements of this permit. It has been a cornerstone of the focused meeting discussions: how to be flexible but prescriptive, allow for forward thinking yet be clear on determining compliance. The RWQCB would like to see these concepts integrated into the permit, but it is unclear how to do that at this point.

Wayne Chiu (RWQCB) admitted that education is a little sparse in the current administrative draft permit. He explained that much of what is in the administrative draft permit was based on what is required by federal regulations. Construction sites are specifically called out in the federal regulations. Public education about toxic substances is also specifically called out in the federal regulations. There is nothing in the federal regulations regarding specific target audiences. The RWQCB can add target audiences if

desired by the stakeholders. The RWQCB is trying to find a balance of meeting requirements of the federal regulations, giving flexibility to Copermittees to implement programs as effectively as possible, but still have a reasonable set of measurements to determine compliance. Wayne acknowledged that all of the information and discussion at these focused meetings and other smaller meetings throughout this process have been informative and helpful. Ultimately, the RWQCB will have to make a decision when writing the draft permit language, but it will be fully informed by what the RWQCB receives as recommendations.

Ziad Mazboudi (City of San Juan Capistrano) raised the issue of Green Streets. In conversations with Cindy Lin (US EPA), the US EPA is promoting the implementation of Green Streets, but it seems that the San Diego RWQCB is against Green Streets. Ziad stated that Green Streets is something that provides a good solution for some of their projects; it is being promoted at the national level by the US EPA, yet not being approved by the San Diego RWQCB.

Daniel Apt (Orange County) explained that the model WQMP and parts of the HMP that were submitted to the RWQCB had a Green Streets approach for roadway projects. That was met with some denial from the RWQCB with regard to the Green Streets approach.

Eric Becker (RWQCB) clarified that the San Diego RWQCB is not against Green Streets; however, the design requirements for SSMP projects must also be met. If a Green Street approach is taken that also meets the design requirements for SSMP projects, then the RWQCB would approve the approach.

Ziad Mazboudi (City of San Juan Capistrano) expressed delight in hearing that the San Diego RWQCB is not outright against Green Streets and understands that SSMP requirements need to be met even when a Green Street approach is being proposed.

Ruth Kolb (City of San Diego) expressed the difficulty in utilizing the Green Streets approach in the City of San Diego as the streets in the City are utility corridors. To implement a Green Street is going to be difficult because of utilities in place, so for San Diego it is something that has to be considered on a case-by-case basis with the soil types and utility corridors.

Jill Witkowski (SD Coastkeeper) brought up the topic of Enforcement Response Plans. Coastkeeper likes this section because it reflects comments that have been made to the RWQCB based on an extensive review of inspection reports throughout San Diego. Coastkeeper's review of inspection reports noted that inspections are done vastly different across jurisdictions and even within jurisdictions based upon which inspector completed the inspection. The review of inspection reports also discovered inconsistencies within jurisdictions regarding follow up inspections. Coastkeeper gave feedback to the RWQCB that there should be ground rules with inspections and follow-ups need to be ensured when there are problems. At the same time, Coastkeeper has heard from Copermittees that forcing application of high level enforcement does not leave jurisdictions the discretion to use the most effective methods to correct issues on an individual basis. Coastkeeper understands those concerns and explained that is why there is discretion for defining high level enforcement. There need to be some standards that all Copermittees' inspectors are

required to do. Coastkeeper likes the basis of what is currently in the administrative draft permit.

Jon Van Rhyn (County of San Diego) responded that the issue of a Copermittee not using enforcement or not following through on enforcement is an issue for the RWQCB and may not be able to be fixed no matter what the permit language states. The San Diego County Copermittees have three main discussion points with regard to Enforcement Response Plans (see slide 6 of the handout prepared by the San Diego Copermittees). The San Diego Copermittees believe the way Enforcement Response Plans are currently laid out in the administrative draft permit is overly structured and overly complicated. Basic requirements can be laid out as to what plans the Copermittees would rely on and reference, and which would need new development of plans. For example, construction and existing development are combined in the current administrative draft permit. Typically, those two categories would not fall under the same Enforcement Response Plan.

Jon Van Rhyn (County of San Diego) continued that the current administrative draft permit calls for enforcement response within 10 working days for compliance or else rationale must be added to the database if more time is needed. An enforcement response of 10 working days does not correspond to typical compliance timeframes as they currently exist. Typical compliance schedules at this time are 30 days (20 working days). The San Diego County Copermittees suggest aligning enforcement response times with the current standard of 30 days instead of 10 working days.

Ruth Kolb (City of San Diego) shared that several years ago the City worked with the attorney's office regarding what problems would be addressed and what type of fines can be issued, based on all environmental issues, not just storm water. The City has enforcement programs in place that may go a little bit beyond what is considered within the water quality realm, and that needs to be considered. There are requirements related to code enforcement already in place that implement the 30-day response time. The San Diego County Copermittees are asking that the permit be consistent with the existing requirements of the municipalities.

Jon Van Rhyn (County of San Diego) raised the issue of high level enforcement. As currently written in the administrative draft permit, it eliminates Copermittee discretion in its implementation. Jon clarified that the Copermittees are not unwilling to commit to use of high enforcement tools when warranted; however, looking at the language currently in the administrative draft permit, if sediment is a high priority issue, then every time an enforcement issue is related to sediment, regardless of other factors, then the Copermittees must automatically implement high level enforcement. The San Diego County Copermittees want to use some discretion in implementing high level enforcement, as starting with high level enforcement may not be applicable to specific situations.

Mike Beanan (South Laguna Civic Association and Laguna Bluebelt) stated that enforcement can shift resources and attention. Once the offending MS4 storm drains are identified, enforcement allows Copermittees to move forward because they are under that enforcement order. Mike admitted that sometimes it is difficult for jurisdictions to enforce because it results in acrimonious neighborhoods and citizens. Sometimes it is better for the

RWQCB to issue enforcement actions as they are an outside agency. Mike explained that without enforcement actions, it is hard for cities to shift resources.

Stephanie Bauer (Port of San Diego) brought up the topic BMP implementation and maintenance, referring the stakeholders to slide 8 of the handout prepared by the San Diego County Copermittees. Once the Copermittees, with public input, have gotten through the prioritization process and identified the areas for focus, the next step is to use BMPs, as appropriate, to address issues. The current administrative draft permit language mentions “enhancement” of BMPs; however, BMPs are already required to be implemented to the MEP. The San Diego County Copermittees would like the word “enhanced” to be removed from the permit language.

Stephanie Bauer (Port of San Diego) also informed the stakeholders that Copermittees may not have authority over sanitary sewer agencies. The administrative draft permit requires jurisdictions to include information from sanitary sewer agencies; however, the sanitary sewer agencies may not release the required information. The San Diego County Copermittees would prefer permit language to encourage, not require, jurisdictions to keep themselves informed with sanitary sewer information.

Stephanie Bauer (Port of San Diego) questioned the linkage between unpaved road maintenance and evaluation of stream channel geomorphology. The general consensus among the San Diego County Copermittees is that it is infeasible to conduct an evaluation of stream channel geomorphology during regular maintenance inspections of unpaved roads. The San Diego County Copermittees request that requirement to be stricken from the permit.

Stephanie Bauer (Port of San Diego) also addressed retrofits and channel rehabilitation requirements, requesting that they be treated as tools in the BMP toolbox instead of separate permit requirements. They should be provided as subsections under BMP Implementation and Maintenance, allowing the Copermittees to determine if they are feasible or if they are the best mechanism for accomplishing the goals of the Water Quality Improvement Plans.

Wayne Chiu (RWQCB) explained that a lot of what is in the BMP Implementation and Maintenance section stems from what is in the federal regulations (40 CFR 122.26(d)(2)(iv)), which calls out a lot of specific BMP requirements for specific types of existing development facilities, including the sanitary sewer requirement. The RWQCB understands that BMPs should already be implemented to the MEP; therefore, they understand the concern with the term “enhancement.” The RWQCB also understands that MEP is constantly evolving, so things should be consistently improving and BMPs should be evolving to become better. As additional BMPs are developed or realized, then those should be implemented.

David Barker (RWQCB) clarified that in Wayne’s response, his reference to federal regulations was not a legal statement; he was simply providing insight as to where the RWQCB drew the substance for writing the requirement. It may take an attorney to analyze if that was correct or not, but Wayne was simply providing the reference for the permit language.

Cindy Lin (US EPA) agreed that citing the source for permit language is not a legal issue, simply a point of reference. She stated that under this permit, the permit writers must consider what the CFR is requiring, but there is flexibility with some of those requirements as long as the framework is kept in mind.

Wayne Chiu (RWQCB) responded to the linkage between unpaved road maintenance and the evaluation of stream channel geomorphology. In the last ten years, the RWQCB has responded to several complaints related to unpaved roads. Unpaved roads discharge a lot of sediment when not properly maintained or compacted. Unpaved roads tend to be along or through waterways, which contributes to a change in geomorphology. Unpaved roads are a large source of sediment in areas, especially when crossing through a receiving water. The RWQCB also understands that evaluation of stream channel geomorphology may be above what regular maintenance or an inspection may do. Part of the concept the RWQCB is trying to incorporate is to look at existing problems, determine what is causing existing problems, and fix the problems through alternative methods. Rather than focusing on inspections and BMP implementation, the better course may be to retrofit and figure out how to restore and rehabilitate some of the channels already impacted and degraded. Right now the toolbox, with inspections and existing BMPs and enforcement, is limited and can only go so far. This permit is trying to push the MEP line a little bit further and move things farther along to make tangible improvements in the quality of discharges from MS4s and the quality of receiving waters.

Nancy Palmer (City of Laguna Niguel) suggested that the issue of channel geomorphology on unpaved roads should be shifted over as something in the Water Quality Improvement Plans as a retrofit strategy, as opposed to something tacked on to an Operation and Maintenance section.

Colin Kelly (OC Coastkeeper) asked the County of San Diego, regarding authority over sanitary sewer agencies, for clarification that the County's issue is with the last sentence of Section II.E.5.c.(4)(c); that the County does not have an issue in implementing controls to prevent infiltration or seepage from sanitary sewers into the MS4.

Jon Van Rhyn (County of San Diego) concurred.

VII. Design and Performance Standards, and Alternative Compliance

Eric Becker (RWQCB) introduced the ideas and goals intended by the RWQCB for this section of the administrative draft permit. First, the RWQCB wants a consistent set of requirements throughout all three counties and pulled most of the design standards from the Orange County and Riverside County permits. Second, the RWQCB wants to provide more flexibility in how to meet those requirements, including offsite mitigation opportunities. The RWQCB is interested in the stakeholders' take and suggestions on this alternative language.

Shawn Weeden (Geocon, BIA) provided some educational material on infiltration, retention, soil types, and potential damages. He provided soil type maps of Ventura, Los Angeles, Orange, Riverside, and San Diego Counties. Yellow indicates where infiltration is

likely feasible, green is likely infeasible, and red is infeasible. As shown on the maps, a lot of area within San Diego County is infeasible for infiltration.

Shawn Weeden (Geocon, BIA) also highlighted geotechnical conditions that could be affected from required infiltration, including slope stability, expansive soil, compressible soil, seepage, and loss of pavement and foundation subgrade support. From a geotechnical standpoint, it is not only infiltration that can affect geotechnical conditions, but it is also retention. When geotechnical conditions are affected by infiltration or retention, it is the geotechnical engineers that are brought forth for litigation. Simple actions, such as unhooking roof drains and letting them flow into landscaped areas, can cause the loss of foundation support, separation between tilt up panels, racking in doors and windows, dry wall cracks, etc. As a geotechnical engineer, Shawn simply wanted to explain that there are a lot of feasibility issues within Region 9.

Shawn Weeden (Geocon, BIA) continued that from a design standpoint, there are other ways to retain, including retention basins, pervious pavement, pervious concrete, but most of the time within design and implementation it is using liners or specialized devices. Shawn would prefer flow-through BMPs because of the soil types and issues seen in the past.

Wayne Chiu (RWQCB) stated that he was under the impression that this type of discussion and scenarios would be covered during the upcoming Hydromodification Meeting. The RWQCB was hoping today to talk about how those design requirements and performance standards within the permit would be utilized; how the alternative compliance section would fit in with that; and, how those alternatives could be utilized by Copermitees to achieve some of their goals and targets set up within the Water Quality Improvement Plans. The RWQCB recognizes that infiltration is not going to work on every site. That is why it needs to be figured out how to have these standards in the permit and how to fit alternative compliance in with the design. When a designer is developing a plan and figuring out infiltration or retention design, they can include infiltration, evapotranspiration, stormwater harvesting, retention basins, etc. When they can't meet the design standard through one or a combination of those methods, that's where the designer would look at alternatives and determine where else to go to try to meet the requirements.

Tory Walker (BIA and Vista Chamber of Commerce) addressed the 85th percentile runoff generation. Several slides in the handout prepared by the BIA cover what is an 85th percentile storm event, and what it means in terms of comparing natural conditions to post-development conditions. The development community would like to improve the administrative draft permit to incorporate natural runoff scenarios. The point would be to maintain naturally occurring runoff which does provide beneficial uses to receiving waters, as opposed to retaining 100 percent of the post-development 85th percentile runoff. The BIA has done a comparison using Lindbergh Field as an example, with 57 years of monitoring data, to get a good sense of what the 85th percentile storm is. In addition, isopluvial maps have been developed to show the 85th percentile, 24-hour depth for San Diego County and other counties. Runoff depends on many factors and is not a simple issue, but it can be addressed in terms of existing hydrologic methodologies. Specifically, when looking at soils and slopes and vegetation and some of those parameters, there are developed curve

numbers that can be used to estimate natural and post-development runoff volumes. The development community believes there is a better way to manage the 85th percentile runoff. The development community would propose language in the permit that instead of capturing 100 percent of the 85th percentile volume, the requirement would be a difference between an estimated pre-developed and post-developed condition so that you are maintaining, preserving natural condition runoff.

Julie Precopio (City of Santee) stated that the San Diego County Copermittees have been talking about the same kind of concepts and also have concerns about the strict retention of the 85th percentile storm volume. It is understood that the intent is pollutant load reduction, which is a good goal. The San Diego County Copermittees have concerns, however, about runoff to creeks and creek improvement projects, knowing that retaining the 85th percentile storm means that 85% of the average annual volume of runoff would not reach the creeks in the same way it would in the natural condition. Julie referenced slide LD 7 of the handout prepared by the San Diego County Copermittees. The San Diego County Copermittees are recommending permit language be changed such that projects would retain the pre-project 85th percentile retention volume to mimic natural hydrology.

Julie Precopio (City of Santee) addressed Shawn Weeden's comments regarding the retention requirement not being feasible in many areas and the requirement of retention potentially resulting in geotechnical hazards. The San Diego County Copermittees feel that the current administrative draft permit, which requires retention onsite or mitigation offsite, if infeasible, relies too heavily on the mitigation program. Projects should have the ability to meet the permit requirements onsite. In order to do that, the San Diego County Copermittees are proposing a three-tiered compliance standard, similar to what has been in other permits. The first tier would be to retain the pre-project 85th percentile volume onsite to mimic natural hydrology, where conditions permit. The second tier would be, where retention is infeasible, design LID/BMPs to achieve pollutant load reduction greater than or equal to the retention standard of the first tier (with a notation that the Copermittees are open to waiving proof of infeasibility in unique circumstances where the proposed offsite mitigation results in equal or greater overall water quality benefit). The third tier would be, where the first and second tier standards cannot be met, provide onsite treatment and offsite mitigation (for retention and/or HMP) that provides an overall water quality benefit within the Watershed Management Area.

Daniel Apt (Orange County) responded to the proposal from the San Diego County Copermittees, expressing specific concern with removing the biofiltration step that is in the Santa Margarita and South Orange County permits and the essential effect that might have on development and on the watershed. The biofiltration step is in the Santa Margarita and South Orange County permits for sites with bad soils. Harvesting and reuse of water is not feasible for many Southern California sites. Infiltration is the primary way people are meeting the retention requirements. If they cannot meet requirements through infiltration, then they move on to biofiltration. By removing the biofiltration step, it will cause development to focus on sites with good soils, and effectively degrade the overall quality of the watershed.

Sumer Hasenin (City of San Diego), in response to Daniel Apt, stated that the second tier of the San Diego County Copermittees' proposal could include bioretention or biofiltration.

Daniel Alt (Orange County), with that clarification, agreed with the proposal from the San Diego County Copermittees, as it mimics more of an LID approach.

Colin Kelly (OC Coastkeeper) agreed that the LID priority should be to capture water onsite and implement a variety of LID principles. Colin asked for clarification on the notation to the second tier as it would seem to be a fast-track to offsite treatment although onsite treatment is preferred.

Julie Precopio (City of Santee) agreed that onsite treatment is generally the direction to head; however, there could be an opportunity to restore a creek downstream of a development. If that developer were willing to come in and restore that creek, that would be seen as such a benefit that the developer may not need to meet the HMP requirements because the issue with HMP has been addressed by restoring the channel while also providing a benefit to the overall water quality health. There may be an opportunity to implement a greater project.

Colin Kelly (OC Coastkeeper) expressed interest in exploring that. Orange County and Inland Empire Coastkeeper have explored that internally before and considered it, but have some long term problems with it. For instance, if the developer is allowed to otherwise avoid responsibilities, then without proper maintenance of the creek in the long term, water quality could degrade again and the benefits would not be as strong as if LID had been done properly on the development site. Under larger regional LID programs, Coastkeeper has concerns about funding of those mechanisms. If developers pay into funds, then the LID programs might not be implemented until sufficient funds are available, if ever.

Mark Grey (BIA and CICWQ) stated that he personally represents six large trade organizations composed of the people who install and build these controls. He distributed a two-page handout with planning and land development program element suggestions developed by the BIA and CICWQ. The BIA and CICWQ share the concern about biofiltration being recognized in the LID BMP selection hierarchy when other retention BMPs are infeasible. An associated concern is that under the current administrative draft permit, if a developer goes through the onsite retention hierarchy and cannot manage 100% of the design volume, installation of a biofilter would not aide in reaching that retention design volume and the developer would still have to mitigate the difference in volume even if pollutant removal is accomplished through use of biofiltration. Mark has reviewed all the Southern California permits and that provision does not appear in any of the other permits. The BIA and CICWQ would like to see flow-through controls maximized to the extent feasible before moving to traditional controls.

Mark Grey (BIA and CICWQ) continued discussion regarding sub-regional and regional approaches, adding a perspective from the Los Angeles County Permit which is currently being reviewed by the Los Angeles RWQCB. Based on conversations that Mark has had with several NGOs, when there is a regional project that exists that can demonstrate that the stormwater can be beneficially reused for groundwater augmentation that those projects are recognized as co-equal and a project proponent would not have to go through the LID

feasibility engineering hierarchy. That sub-regional or regional project has to be available and has to demonstrate regional groundwater capture and supply improvement. Lastly, the administrative draft permit doesn't allow watershed and sub watershed scale LID and hydromodification controls to be included in the JRMP. The analog would be what is currently in the South Orange County permit. The BIA and CICWQ would hope the permit would allow consideration of LID tools on a subregional or regional scale as part of a master planning process.

Mark Grey (BIA and CICWQ) concluded with the proposal from the BIA and CICWQ to substitute "concrete-lined" with "hardened" and recognize the urban area exemption in the permit.

Wayne Chiu (RWQCB) asked for clarification from the stakeholders as to their interpretation of retention and the design standard for retention, to determine if the RWQCB's intent is being understood.

Sumer Hasenin (City of San Diego) responded that the San Diego County Copermittees' understanding of the retention requirement is the retention of the 85th percentile storm of the first flush, and not necessarily the consecutive storms. At the same time, the BMPs are to be sized to retain or infiltrate additional storms after an extended dry period.

Wayne Chiu (RWQCB) stated that Sumer's interpretation was correct and asked if the other stakeholders understand or on board with that concept.

Mike Beanan (South Laguna Civic Association and Laguna Bluebelt) cautioned against shifting baselines when talking about the 85th percentile storm. He stated that these areas have suffered from 300 years of grazing and over-grazing. The area should naturally look heavily forested. When calculating the retention percentages, Mike would recommend going back to what the original natural processes were, not the natural processes as they are today. Thoughts are always about restoring the creek, but when creeks are used as mitigations they tend to be flooded out and that excess water moves down to the coast and blows out the beach sand berms and adds nutrient loads to the coastal receiving waters. The region is a semi-arid area. Stakeholders need to think further downstream, to the beach, to the ocean plume, and consider how programs will affect the coastal waters.

Mike Beanan (South Laguna Civic Association and Laguna Bluebelt) also shared that many of the problems being seen in Orange County with residential developments are self-induced. The developers scrape off the top soil, exposing clay soil, then build their projects on top of the clay soil. One solution may be to infiltrate below the clay soil using shallow wells or other methods.

Jill Witkowski (SD Coastkeeper) would like to make clear that in determining the BMPs to be implemented to reach the required retention amount, project proponents should implement the top listed BMPs as much as possible and then move down to the lower BMPs in the hierarchy. Coastkeeper also has concerns about allowing developers to do a creek restoration instead of complying with hydromodification requirements; that may be setting up the restored creek for immediate degradation from the development not implementing hydromodification. The environmental groups also have concerns of allowing this because it has not been done before. Jill suggested implementing this option as a pilot test and then

moving from there. In addition, Coastkeeper is not acceptable to the County's notation exception (waiving proof of infeasibility in unique circumstances where the proposed offsite mitigation results in equal or greater overall water quality benefit). Coastkeeper would be acceptable if the notation exception was allowed in unique circumstances where the proposed offsite mitigation results only in greater overall water quality benefit.

Claudio Padres (County of Riverside) acknowledged that regional systems are difficult to implement and make work, and ongoing maintenance is an important issue; however, the Flood Control Water Conservation District often looks for multiple benefits. Where those opportunities arise or could be created, then putting water into a subregional basin could do a lot more to benefit groundwater supply. If there is a regional opportunity nearby that might be a better option than retaining water onsite where groundwater infiltration may not be accomplished.

Claudio Padres (County of Riverside) also discussed what is and is not retention. He shared that a lot of biofiltration BMPs that may have a discharge also do a significant amount of volume reduction. Not reaching the 100% retention level, but ASCE has indicated 40 up to 80 percent retention through biofiltration BMPs. The Flood Control Water Conservation District has built these BMPs at headquarters to do water quality and volume monitoring to validate those results in Southern California.

Tory Walker (BIA) encouraged Jill Witkowski and Mike Beanan to attend the HMP workshop on August 30, where a lot of concerns will be addressed. He encouraged everyone with an interest in infiltration and regional solutions to make it a high priority to attend the HMP workshop.

Sumer Hasenin (City of San Diego) referred the stakeholders to LD 2 of the handout prepared by the San Diego County Copermittees, which addresses alternative compliance. The San Diego County Copermittees are pleased to see alternative compliance in the permit but would like more discretion given to the Copermittees in exercising alternative compliance options. The first preference would be for projects to comply through onsite BMP implementation, which is why the San Diego County Copermittees proposed the three-tiered approach to the retention requirements. Sumer indicated that the notation would be the exception, not the norm. If mitigation projects are implemented, it will be the jurisdictions' responsibility to establish, maintain, and manage mitigation programs. The San Diego County Copermittees believe that establishing a mitigation program will take significant time and some Copermittees may not have the resources available to identify applicable mitigation projects when they are needed. The San Diego County Copermittees are concerned because no one has done this before and it is a challenge. As a result, the San Diego County Copermittees have some proposed revisions to the permit to strengthen the language in the permit to make the mitigation program more of an optional program at the discretion of the Copermittees.

Sumer Hasenin (City of San Diego) moved on to LD 3 of the handout prepared by the San Diego County Copermittees, which addresses timing of the offsite mitigation program. In the current administrative draft permit, the offsite mitigation program must be ready and implemented prior to first occupancy. The San Diego County Copermittees would like this

requirement more relaxed so that it is more practical. They have suggested language to replace the second sentence in Section II.E.3.(4)(c)(iii) to say that each development's share of the offsite mitigation project must be secured prior to the first occupancy. If the municipality is choosing to let that offsite mitigation project happen, then there are ways of securing funding by bonds from the developer or applicant.

Sumer Hasenin (City of San Diego) continued on to LD 4 of the handout prepared by the San Diego County Copermittees. The San Diego County Copermittees would like retrofit and channel rehabilitation to align better so that Copermittees are encouraged to use projects identified in the Water Quality Improvement Plans as retrofit opportunities. The Copermittees would like to be able to select from these projects for offsite mitigation in the future. Sumer believes that there may be permit language already covering this, but it is not strong enough.

Dennis Bowling (APWA) explained that the way the administrative draft permit is currently set up, it discourages alternative compliance. Projects must go through the infeasibility analysis before looking at offsite mitigation as alternative compliance. Dennis would suggest removing that section and leaving it up to the Copermittees to use discretion in allowing alternative compliance. Dennis commented that many times, when looking at one of these offsite projects, it turns out to be a more economical project; more can be done for clean water within a system for less money. Dennis would prefer the permit be set up to encourage alternative compliance, at the discretion of the Copermittees, instead of requiring an in-depth infeasibility analysis first. This would allow the development community to look at restoration problems up front as equal or better if they are expected to provide better results for the watershed.

Cindy Lin (US EPA) commented on technical infeasibility, stating that it is the US EPA's strong position that projects must demonstrate infeasibility onsite first because the project is making an impact on that site. Projects must demonstrate infeasibility onsite before moving on to offsite mitigation or implementing regional projects.

Dennis Bowling (APWA) explained that he was thinking of something different. For example, there is a project that drains into a prismatic channel and, therefore, is not required to meet hydromodification requirements, but there is a highly degraded portion of the receiving water downstream. It would make more sense to fix that degraded portion than to do hydromodification in the development. Overall it would be better for the watershed. The APWA would want the opportunity to fix the larger problems. By requiring projects to concentrate only onsite, those larger problems may never get fixed.

Claudio Padres (County of Riverside) mentioned that silos in the permit were discussed earlier. That may be what is happening here. The permit requires projects to fix the site. The mission of the RWQCB and EPA is to fix problems in receiving waters and restore beneficial uses. The Water Quality Improvement Plans in this permit are designed to bring all the stakeholders together in a watershed and have a consensus-based approach to what is the best way to meet that end. If it is the consensus through a Water Quality Improvement Plan that the best way to address the receiving water problems is to implement a rehabilitation effort in the receiving waters, then that project should be implemented. There are a lot of

regulatory requirements, permitting, funding, etc. to be considered. One way to help overcome that funding hurdle would be if development projects could help fund that effort as an alternative compliance path. The current administrative draft permit would not allow that because instead of those developers putting funds into that effort, they would have to implement BMPs onsite even if it would not as quickly or efficiently address that watershed's priorities according to a consensus of the stakeholders.

Cindy Lin (US EPA) re-stated that technical infeasibility must first be demonstrated onsite, and then offsite measures can be taken.

Lewis Michaelson (Facilitator) posed the question of what if it is technically feasible to implement BMPs onsite but it is not the most beneficial use of resources.

Cindy Lin (US EPA) responded that the general position is still that infeasibility must be shown onsite first before moving to offsite projects. Projects may implement some BMPs onsite but not reach the full requirements, and then offsite mitigation may also be implemented.

Claudio Padres (County of Riverside) stated that the administrative draft permit as currently written has LID requirements that are general for all projects. There are also specific sizing requirements for LID BMPs to mitigate a certain volume of water above those general LID requirements. Claudio suggested that if a site implements the general LID requirements onsite but it is then more beneficial to the watershed to implement a different mitigation project instead of the costly structural onsite measures, then that is where resources should be directed.

Wayne Chiu (RWQCB) explained that the RWQCB has been wrestling with this issue. The technical infeasibility portion is in the administrative draft permit because of precedent in other permits and the EPA's position on several permits. The RWQCB has, however, in discussion with other parties, recognized that maybe technical infeasibility is not the way to go. It may be better to specify technical feasibility with the most benefit. That may involve doing some onsite treatment, retention, etc., in addition to something offsite, such as a retrofit or rehabilitation project. The overall net benefit of the combined effort would meet the LID retention and hydromodification requirements, and maintain some sort of sustainable configuration within the watershed. The RWQCB would like input from the environmental community on this topic.

Laurie Walsh (RWQCB) noted that she picked up clearly on Jill Witkowski's earlier suggestion about the offsite mitigation resulting in greater, not simply equal, overall water quality benefit and she appreciated the suggestion.

Chris Crompton (Orange County) shared that the poster child example in Orange County is the issue of regional infiltration for water supply purposes. There are a number of areas where water supply could benefit if managed by a professional regional organization as opposed to a diffused system of LID BMPs not being managed at the same level. Chris explained that the North Orange County permit does include the ability to look at those issues by the Copermittees preparing a watershed plan; therefore, in terms of precedent, EPA and environmental groups did weigh in on that permit process and approved that approach. When regional opportunities trumped site-specific issues, then the Copermittees

could implement the regional efforts within the context of the watershed plan; there is precedent.

Jill Witkowski (SD Coastkeeper) agrees with the US EPA position that infeasibility should be proven first as projects should aim to correct issues as close as possible to the impact. Jill understands Dennis Bowling's point about not having a hydromodification impact in a concrete channel; however, if a receiving water has become a concrete channel, then we have failed that water quality segment. The goal should be to remove the concrete channel and return it to a streambed.

Dennis Bowling (APWA) clarified that the channel to which he was referring was not concrete, but a natural, stable channel.

Daniel Apt (Orange County) explained that there is a mandate for flood control; therefore, some of these concrete channels have to be there. If there is a concrete channel, it does not mean it's a failure; not everything can be restored.

Jill Witkowski (SD Coastkeeper) addressed the issue of having phasing and having developers put funds in for their share of offsite mitigation. Coastkeeper understands the concern of not getting everything paid for upfront, but is not in agreement that collecting each developer's share would get the project fully funded in the end. Jill suggested having a timeline to the implementation, such as 6 months from the start of the project.

Colin Kelly (OC Coastkeeper) also agrees with the US EPA position that infeasibility should be proved first, supporting the existing prioritization of LID with infiltration at the start. Colin shared that with North Orange County, there were unreliable soil maps when compared to soil sampling results. He understands that South Orange County and San Diego County are significantly different with soil types and believes that would be a benefit to proponents of development projects because it should be easier to prove infeasibility for infiltration.

Colin Kelly (OC Coastkeeper) addressed Chris Crompton's mention of the North Orange County permit, stating that he participated in that as well and it is too early to tell if the regional BMP and water retention programs are a success or not. Coastkeeper is concerned that proponents of projects will not choose to do what is the best option for the watershed; they will elect to satisfy the minimum requirements at the best price.

Chris Crompton (Orange County) responded to Colin's concerns, stating that the North Orange County Permit provides a process and sets a fairly high bar for what is required to allow a regional program instead of a site-specific program. It has not been implemented, but it does provide an off-ramp to move from site specific issues to looking at regional benefit issues. Chris believes it is something that cannot be punted past this permit. It may be less value to implement BMPs onsite than to do a regional program, and the permit should investigate this.

Claudio Padres (Riverside County) acknowledged Colin's concerns that developers should not be choosing whether to implement controls onsite or to implement a regional program and agreed. It would be done in the context of the Water Quality Improvement Plans, put together by Copermittees and stakeholders and approved by the RWQCB. It's an approved watershed plan that would identify these regional projects.

Claudio Padres (Riverside County) expressed concern regarding the concept of waiving proof of infeasibility only where the proposed offsite mitigation results in greater overall water quality benefit. He questioned whether this is then requiring project proponents to mitigate more than their impact.

Claudio Padres (Riverside County) stated that he is hearing throughout the focused meetings that the NGO community really wants improvements in the receiving waters; however, if the consensus of the group was that in a certain circumstance doing actual improvements in receiving waters was the best solution, he is hearing the NGO community say they would rather have funds be spent on onsite improvements. It appears like a conflict between the NGO community's ultimate purpose and project handling.

Mike McSweeney (BIA) explained that what he thinks the regulators, NGO community, and even the Copermittees have a hard time understanding is that there is a cost to the process of proving infeasibility. The development community is frustrated to see resources spent on a process that should be spent on fixing the problem. Instead of addressing only new development, house by house or building by building, the development community would support addressing region-wide issues. Mike explained that the development community has been drilled for the last 50 years to keep water away from the building to prevent future damage. If infiltration works, the development community would love to do it. Unfortunately, when looking at the soil availability, it can be inferred that the options to infiltrate are not that great. Instead of spending a lot of time and money hiring consultants to tell developers what they already know, projects should be allowed to move forward with common knowledge. It does not make sense to do things that have little or no benefit when there are other things that can be done to fix these problems.

Colin Kelly (OC Coastkeeper) responded that Mike McSweeney (BIA) is pretty close to making a reasonable argument that infiltration is not effectively feasible in San Diego. It sounds simple then to go through the process to prove that it is infeasible and then move on to the next LID principle. In many instances, LID options are cost effective and will cost less to do LID than alternative or in lieu programs.

Tory Walker (BIA) shared that in his experience as an engineer in San Diego, Southern California, and the Pacific Northwest, that one of the reasons the rainfall charts were included in the handout that the BIA prepared for the meeting is to make two points. One, is that technical infeasibility with regard to soil type can be discussed. The other is to understand that this region is unique. He is hoping that the HMP workshop will also bring out some of those things. One of the things that he has experienced is the difference in precipitation patterns and what that means in terms of second tier LID. There are a number of studies with regard to rainfall distribution and amounts. For example, if a subdivision of 100 lots is built and rain barrels are put on all homes, it can be expected that 5% will love it, 20% will learn to live with it, leaving 75% where those rain barrels will disappear or become sources of other issues that arise when they are not properly maintained. The problem is that in this region the rainfall comes all at once and the rainwater is not going to be used at that time. There is no problem with rain barrels if someone wants to use them, but human behavior is a concern. Consultants do not like telling developers they are going to lose lots

to implement BMPs. With alternative compliance, developers could possibly not lose lots but participate in a program downstream.

Christine Sloan (County of San Diego) referred to slide LD 5 of the handout that the San Diego County Copermittees prepared for the meeting. Christine stated that most can agree that the efforts being done need to be based on scientific data and have demonstrable results. One of the things the San Diego County Copermittees would like to see put more specifically into this section is allowing for adaptive management so that when they have scientific data and demonstrable results they are able to adapt their programs such that these efforts can be done in a way that is responsible to the watershed and water quality health.

Colin Kelly (OC Coastkeeper) referred to slide 7 of the handout prepared by the BIA for the meeting, titled "Runoff from the 85th Percentile Event." The slide states that the intent of the permit is to retain the seasonal first flush only (and not all flows). Colin stated that was not his interpretation of the administrative draft permit. For Coastkeeper, the permit would require retention of about a 5-year storm event for the first qualifying storm and each storm after that.

Wayne Chiu (RWQCB) somewhat agreed in that the BMP volume is designed to capture the 85th percentile amount, then empty over time, and provide capacity to capture subsequent volume from subsequent storms.

Sumer Hasenin (City of San Diego) clarified that a 5-year storm volume is different than an 85th percentile volume.

Wayne Chiu (RWQCB) agreed that the 85th percentile would be, based on the record of storm events of over a certain time, that 85% of those would be less than or equal to that volume and then everything above would be above the 85th percentile and that volume would be allowed to run off.

Sumer Hasenin (City of San Diego) agreed with Wayne's interpretation, further adding that the 85th percentile is closer to a 2-year storm than a 5-year storm and can be determined from precipitation maps for San Diego.

Grant Sharp (Orange County) revisited the topic of Green Streets. Street improvement projects represent a unique set of challenges. When the stakeholder approach was used for the Region 8 permit, they developed a regional water quality management plan for North Orange County that allowed street improvement projects to follow the US EPA Green Streets program, allowing municipalities to meet the unique issues of street improvement projects with LID requirements to the MEP. Street improvements recently finished in North Orange County with biofiltration and pervious pavement has raised the awareness of the community, and the community is happy with the project. The project has improved water quality and reduced the volume of runoff. With HMP as the driving standard, street improvement projects will likely require underground structures to meet the HMP standards, thereby removing the option to do nice LID features at street level and create higher levels of awareness. With HMP as the driving standard, it eliminates the flexibility for streets where there are utilities underground. There are unique constraints with right-of-way and other features that aren't applicable to other land development requirements. In

the North Orange County permit, Ventura County permit, and draft Los Angeles County permit, the standard is to follow the US EPA manual to the MEP.

Eric Becker (RWQCB) responded that the design standard for this region is that all Priority Development Projects (PDPs) must meet the SUSMP requirements. As written, there is not an alternative to follow the US EPA Green Streets manual to the MEP instead of meeting SUSMP requirements.

Wayne Chiu (RWQCB) clarified Grant's example that he is talking about taking a street, which is large enough to meet the PDP requirements, restructuring it to meet the US EPA Green Streets guidance manual, but it would not meet HMP requirements and may not meet retention requirements. Wayne asked what would happen if there was another Capital Improvement Project (CIP) that could not meet LID or HMP requirements, would retrofitting a street with Green Street features be used as alternative compliance for the other CIP site.

Grant Sharp (Orange County) responded that would be a good possible option, so long as the retrofit does not also become a PDP.

Wayne Chiu (RWQCB) stated that the RWQCB would like to retrofit streets to become Green Streets.

Grant Sharp (Orange County) explained that retrofit of streets to become Green Streets is constrained by the 5,000 square foot threshold for PDPs.

Billy Walker (City of Oceanside) revisited the existing development discussion, specifically in regard to residential projects being separated from industrial, commercial, and municipal projects. The San Diego County Copermittees would like to propose an exclusion from the PDP category for single-family residences (SFR) that are not part of a larger development. A SFR that is not part of a larger development does not have the same impact on water quality as an industrial, commercial, or municipal development. Because of this, the SFR that is not part of a larger development should have a different threshold. The underlying issue is that Copermittees have limited resources and, along with types of inspections and tracking and so on, the Copermittees would like to be able to direct their limited resources to higher priorities, away from unnecessary paperwork, and toward looking to develop those things that lead to more substantial water quality improvement. The solution would be to include SFR that is not part of a larger development as an exemption in the permit and then allow the Copermittees to develop a suite of BMPs that would address 85th percentile retention, treatment, and HMP requirements; thereby simplifying and streamlining the permit process for the applicant.

Ziad Mazboudi (City of San Juan Capistrano) stated that this proposal would be supported by Orange County, and it would allow for efficient use of resources.

Wayne Chiu (RWQCB) acknowledged the concerns about dealing with SFRs with an individual landowner that is not part of a larger development and having them go through the PDP process and maintain a set of BMPs. Where the RWQCB is uncomfortable, however, is where these projects would be creating fairly significant amounts of impervious surfaces and having multiple projects of those types within a watershed management area where there would be a cumulative impact. The RWQCB understands if there were some minimum

requirements that would meet the 85th percentile LID retention and hydromodification requirements that must be implemented to remove them from the PDP classification, and the RWQCB would be okay with that. There are a set of PDP exemptions in the administrative draft permit. If additional exemptions are included in there with a set of requirements that would give assurance that water quality would be protected, then the RWQCB could agree to a separate track for those types of developments. The RWQCB may have additional concerns, but is not completely opposed to it.

Billy Walker (City of Oceanside) responded that the intent is to derive in the BMP Design Manual a set of BMPs that would address all of those concerns. It would be organized in such a fashion that an applicant coming in for a SFR would be able to go through this suite of BMPs and, based upon percent impervious and soil type and so on, they could take these BMPs and, similar to the BMP Calculator, run through a simple spreadsheet and come up with a set of BMPs that would address retention and HMP requirements. The San Diego County Copermittees would like the latitude to have that written into the permit and then be able to address it in the BMP Design Manual.

Tory Walker (BIA) agreed that working on SFRs that are not part of larger developments can be frustrating because of convoluted rules and complex sites. The proposal from the San Diego County Copermittees is not a free pass from HMP requirements. When discussing HMP requirements three years ago, there was a concern about liability in trying to develop an HMP pond maintained by a private owner. In doing BMPs to the MEP on a SFR, keeping it simple for a homeowner is very critical.

Christine Sloan (County of San Diego) explained that in some cases, these SFRs are doing redevelopment, so it would nicely fit into retrofit and have benefits to water quality.

Chris Crompton (Orange County) stated that there are some special issues associated in the land development area with very large planned communities. In South Orange County they have one of the largest communities with Rancho Mission Viejo. There is concern with the way such developments area portrayed in the permit and how the permit applies to something that is being served by an existing Environmental Impact Report (EIR), in this case an EIR from 2004. How the large development project is moving forward with all its plans and processes is something that is very important to the County and the developer.

Laura Coley Eisenberg (Rancho Mission Viejo) represents a cattle ranching and development company located in South Orange County, bordering San Diego County. They have been working for about 20 years developing a comprehensive land use and open space plan for Rancho Mission Viejo. This comprehensive plan has been memorialized in several documents, including a Habitat Conservation Plan through U.S. Fish and Wildlife Service, a Special Area Management Plan with the U.S. Army Corps of Engineers, in addition to a Development Agreement, General Plan Amendment, and Zoning Change with the County of Orange. During the permit negotiations for the current South Orange County Permit, her company spent a lot of time with the RWQCB and Orange County to include language in the permit that recognized that the land use and development plan for Rancho Mission Viejo has been developed using a series of watershed and sub-watershed planning principles specifically developed for the property. A significant amount of time and money was spent

investigating the property to understand the soil types, endangered species, coastal sage scrub, etc., and a conceptual Water Quality Management Plan was incorporated into the EIR, which was certified in 2004. Her company is disappointed to see in the administrative draft permit that the language from the current South Orange County Permit was excluded. Rancho Mission Viejo would like to have the currently adopted South Orange County permit language, as shown on the last slide on page 5 of the handout that Rancho Mission Viejo prepared for the meeting, replicated in this permit.

Sumer Hasenin (City of San Diego) referred the stakeholders to slide LD9 of the handout prepared by the San Diego County Copermittees for this meeting, which relates to the HMP and the naturally occurring requirement in the permit. The administrative draft permit requires projects to mitigate for pre-project flow rates and conditions to match the naturally occurring conditions. The San Diego County Copermittees have discussed this issue with RWQCB staff offline and understand that RWQCB staff has indicated this is beyond their control in terms of changing this requirement. The San Diego County Copermittees still propose that redevelopment projects should be required to mitigate for pre-project flow rates and conditions to match the pre-project conditions, instead of naturally occurring conditions. This is a significant issue of compliance with the HMP, and the San Diego County Copermittees are hoping to continue dialogue with the RWQCB on the technical requirements of this provision in the permit.

VIII. Other Topics / Audience Comments

Comment: Rosanna Lacarra (City of Coronado) shared that the majority of redevelopment in Coronado occurs on single family lots, and the City of Coronado has been requiring a set of LID treatment BMPs with the last permit cycle based on the model SUSMP. Raising the bar to a PDP level for SFRs would preclude a lot of current BMPs being implemented or raise the bar so high that it would pose a big challenge. The City of Coronado would support consideration of alternatives to SFR being in PDP and would continue to implement BMPs but not to the level of PDP.

IX. Next Steps

This marks the end of the focused meetings. There will be a workshop at the RWQCB office on Wednesday, September 5, where the RWQCB will present in which areas of the permit they anticipate making changes. RWQCB staff has been meeting offline with various groups and will continue to do so through the end of the comment period on September 14. The last day to provide comments is Friday, September 14.

X. Meeting Adjourned