California Regional Water Quality Control Board
San Diego Region

Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of Orange, The Incorporated Cities of Orange County, and The Orange County Flood Control District Within the San Diego Region

Order No. R9-2009-0002
NPDES NO. CAS0108740

December 16, 2009

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
Phone • (858) 467-2952 • Fax (858) 571-6972
http://www.waterboards.ca.gov/sandiego

To request copies of the Orange County Municipal Storm Water Permit, please contact Ben Neill, Water Resources Control Engineer at (858) 467 – 2983, bneill@waterboards.ca.gov

Documents also are available at: http://www.waterboards.ca.gov/sandiego

WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF RUNOFF FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) DRAINING THE WATERSHED OF THE COUNTY OF ORANGE, THE INCORPORATED CITIES OF ORANGE COUNTY, AND THE ORANGE COUNTY FLOOD CONTROL DISTRICT WITHIN THE SAN DIEGO REGION

Adopted by the
California Regional Water Quality Control Board
San Diego Region
on December 16, 2009

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Telephone (858) 467-2952

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor
LINDA S. ADAMS, Agency Secretary, California Environmental Protection Agency

California Regional Water Quality Control Board
San Diego Region

David King *Vice Chair*	Recreation / Wildlife
Eric Anderson	Irrigated Agriculture
Wayne Rayfield	Water Quality
Grant Destache	Industrial Water Use
George Loveland	Water Supply
Marc Luker	Undesignated (Public)

David W. Gibson, *Executive Officer*
Michael P. McCann, *Assistant Executive Officer*

This permit was prepared under the direction of

David T. Barker P.E., *Chief, Water Resource Protection Branch*

by

Jimmy G. Smith, *Senior Environmental Scientist*
Ben Neill, *Water Resource Control Engineer*
Chad Loflen, *Environmental Scientist*

Table of Contents

FINDINGS:
A. BASIS FOR THE ORDER 1
B. REGULATED PARTIES 1
C. DISCHARGE CHARACTERISTICS 2
D. RUNOFF MANAGEMENT PROGRAMS 6
E. STATUTE AND REGULATORY CONSIDERATIONS 12
F. PUBLIC PROCESS 17

DISCHARGE and LEGAL PROVISIONS:
A. PROHIBITIONS AND RECEIVING WATER LIMITATIONS 18
B. NON-STORM WATER DISCHARGES 19
C. NON-STORM WATER ACTION LEVELS 21
D. STORM WATER ACTION LEVELS 25
E. LEGAL AUTHORITY 26

PROGRAM PROVISIONS:
F. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM (JRMP) 28
1.DEVELOPMENT PLANNING COMPONENT 28
2.CONSTRUCTION COMPONENT 48
3.EXISTING DEVELOPMENT COMPONENT 54
4.ILLICIT DISCHARGE DETECTION AND ELIMINATION 69
5.PUBLIC PARTICIPATION COMPONENT 72
G. WATERSHED RUNOFF MANAGEMENT PROGRAM 73
H. FISCAL ANALYSIS 77
I. TOTAL MAXIMUM DAILY LOADS 78

REPORTING and PROGRAM MANAGEMENT PROVISIONS
J. PROGRAM EFFECTIVENESS ASSESSMENT AND REPORTING 79
K. REPORTING 83
L. MODIFICATION OF PROGRAMS 90
M. PRINCIPAL COPERMITTEE RESPONSIBILITIES 90
N. RECEIVING WATERS AND MS4 DISCHARGE MONITORING AND REPORTING PROGRAM 90
O. STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS 91

Attachment A – Basin Plan Prohibitions
Attachment B – Standard Provisions, Reporting Requirements, and Notifications
Attachment C – Definitions
Attachment D – Scheduled Submittal Summary and Reporting Checklist Requirements
Attachment E – Receiving Waters And MS4 Discharge Monitoring And Reporting Program No. R9-2009-0002
Attachment F – Data

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

A. BASIS FOR THE ORDER

1. This Order is based on the federal Clean Water Act (CWA), the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000), applicable State and federal regulations, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (State Board), the Water Quality Control Plan for the San Diego Basin adopted by the Regional Board, the California Toxics Rule, and the California Toxics Rule Implementation Plan.

2. This Order reissues National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108740, which was first adopted by the Regional Board on July 16, 1990 (Order No. 90-38), and then reissued on August 8, 1996 (Order No. 96-03) and February 13, 2002 (Order No. R9-2002-01). On August 21, 2006, in accordance with Order No. R9-2002-01, the County of Orange, as the Principal Copermittee, submitted a Report of Waste Discharge (ROWD) for reissuance of the municipal separate storm sewer system (MS4) Permit.

3. This Order is consistent with the following precedential Orders adopted by the State Water Resources Control Board (State Board) addressing MS4 NPDES Permits: Order 99-05, Order WQ-2000-11, Order WQ 2001-15, Order WQO 2002-0014, and Order WQ-2009-0008 (*SWRCB/OCC FILE A-1780).*

4. The Fact Sheet / Technical Report for the Order No. R9-2009-0002, NPDES No. CAS0108740, Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District Within the San Diego Region includes cited regulatory and legal references and additional explanatory information and data in support of the requirements of this Permit. This information, including any supplements thereto, and any response to comments on the Tentative Orders, is hereby incorporated by reference into these findings.

B. REGULATED PARTIES

1. Each of the persons in Table 1 below, hereinafter called Copermittees or dischargers, owns or operates an MS4, through which it discharges runoff into waters of the United States within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is “interrelated” to a medium or large MS4; or (3) an MS4 which contributes to a

violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the United States (waters of the U.S).

Table 1. Municipal Copermittees

1. City of Aliso Viejo	8. City of Mission Viejo
2. City of Dana Point	9. City of Rancho Santa Margarita
3. City of Laguna Beach	10. City of San Clemente
4. City of Laguna Hills	11. City of San Juan Capistrano
5. City of Laguna Niguel	12. County of Orange
6. City of Laguna Woods	13. Orange County Flood Control District
7. City of Lake Forest	

C. DISCHARGE CHARACTERISTICS

1. Runoff discharged from an MS4 contains waste, as defined in the California Water Code (CWC), and pollutants that adversely affect the quality of the waters of the State. The discharge of runoff from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA.

2. MS4 storm water and non-storm water discharges are likely to contain pollutants that cause or threaten to cause a violation of water quality standards, as outlined in the Regional Board’s Water Quality Control Plan for the San Diego Basin (Basin Plan). Storm water and non-storm water discharges from the MS4 are subject to the conditions and requirements established in the San Diego Basin Plan for point source discharges. These surface water quality standards must be complied with at all times, irrespective of the source and manner of discharge.

3. The most common categories of pollutants in runoff include total suspended solids, sediment, pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste); detergents; and trash.

4. The discharge of pollutants and/or increased flows from MS4s may cause or threaten to cause the concentration of pollutants to exceed applicable receiving water quality objectives and/or impair or threaten to impair designated beneficial uses resulting in a condition of pollution (i.e., unreasonable impairment of water quality for designated beneficial uses), contamination, or nuisance.

5. Pollutants in runoff can threaten and adversely affect human health. Human illnesses have been clearly linked to recreating near storm drains flowing to coastal waters. Also, runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may be eventually consumed by humans.

6. Runoff discharges from MS4s often contain pollutants that cause toxicity to aquatic organisms (i.e., adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). Toxic pollutants impact the overall quality of aquatic systems and beneficial uses of receiving waters.

7. The Copermittees discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within one of the eleven hydrologic units (San Juan Hydrologic Unit) comprising the San Diego Region as shown in Tables 2a and 2b. Some of the receiving water bodies have been designated as impaired by the Regional Board and the United States Environmental Protection Agency (USEPA) in 2006 pursuant to CWA section 303(d). Also shown in the Tables are the watershed management areas (WMAs) as defined in the Regional Board report, Watershed Management Approach, January 2002.

Table 2a. Common Watersheds and CWA Section 303(d) Impaired Waters

Regional Board Watershed Management Area (WMA)	**Hydrologic Area (HA) or Hydrologic Subarea (HSA) of the San Juan Hydrologic Unit**	**Major Receiving Water Bodies**	**303(d) Pollutant(s)/stressor or Water Quality Effect[1]**
Laguna Coastal Streams	Laguna HA, excluding Aliso HSA and Dana Point HSA	Laguna Canyon Creek, Pacific Ocean	Bacterial indicators Sediment toxicity
Aliso Creek	Aliso HSA	Aliso Creek, English Canyon, Pacific Ocean	Toxicity Phosphorus Bacterial indicators Benzo[b]fluoranthene Dieldrin Sediment Toxicity
Dana Point Coastal Streams	Dana Point HSA	Dana Point Harbor, Salt Creek, Pacific Ocean	Bacterial indicators
San Juan Creek	Mission Viejo HA	San Juan Creek, Trabuco Creek, Oso Creek, Canada Gobernadora, Bell Canyon, Verdugo Canyon, Pacific Ocean	Bacterial indicators DDE Chloride Sulfates Total dissolved solids

[1] The listed 303(d) pollutant(s) do not necessarily reflect impairment of the entire corresponding WMA or all corresponding major surface water bodies. The specific impaired portions of each WMA are listed in the State Water Resources Control Board's 2006 Section 303(d) List of Water Quality Limited Segments.

Table 2a. Common Watersheds and CWA Section 303(d) Impaired Waters

Regional Board Watershed Management Area (WMA)	Hydrologic Area (HA) or Hydrologic Subarea (HSA) of the San Juan Hydrologic Unit	Major Receiving Water Bodies	303(d) Pollutant(s)/stressor or Water Quality Effect[1]
San Clemente Coastal Streams	San Clemente HA	Prima Deshecha, Segunda Deshecha, Pacific Ocean	Bacterial indicators Phosphorus Turbidity
San Mateo Creek	San Mateo HA	San Mateo Creek, Christianitos Creek, Pacific Ocean	

Table 2b. Common Watersheds and Municipalities

Municipality	Laguna Coastal Streams	Aliso Creek	Dana Point Coastal Streams	San Juan Creek	San Clemente Coastal Streams	San Mateo Creek
Aliso Viejo	☑	☑				
Dana Point			☑	☑		
Laguna Beach	☑	☑				
Laguna Hills *		☑		☑		
Laguna Niguel		☑	☑	☑		
Laguna Woods *		☑				
Lake Forest *		☑				
Mission Viejo		☑		☑		
Rancho Santa Margarita				☑		
San Clemente					☑	☑
San Juan Capistrano				☑		
County of Orange *	☑	☑	☑	☑	☑	☑
Orange County Flood Control District *	☑	☑	☑	☑	☑	
* Municipality also includes areas within watersheds of the Santa Ana Regional Board that are outside the scope of this Order						

8. Trash is a persistent pollutant which can enter receiving waters from the MS4 resulting in accumulation and transport in receiving waters over time. Trash poses a serious threat to the Beneficial Uses of the receiving waters, including, but not limited to, human health, rare and endangered species, navigation and human recreation.

9. The Copermittees' water quality monitoring data submitted to date documents persistent violations of Basin Plan water quality objectives for various runoff-related pollutants (fecal coliform bacteria, total suspended solids, turbidity, metals, etc.) at

various watershed monitoring stations. Persistent toxicity has also been observed at some watershed monitoring stations. In addition, bioassessment data indicates that the majority of urbanized receiving waters have Poor to Very Poor Index of Biotic Integrity ratings. In sum, the above findings indicate that runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in Orange County.

10. When natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots, the natural absorption and infiltration abilities of the land are lost. Therefore, runoff leaving a developed area is significantly greater in runoff volume, velocity, and peak flow rate than pre-development runoff from the same area. Runoff durations can also increase as a result of flood control and other efforts to control peak flow rates. Increased volume, velocity, rate, and duration of runoff, and decreased natural clean sediment loads, greatly accelerate the erosion of downstream natural channels. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as a 3-5 percent conversion from natural to impervious surfaces. The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

11. Development creates new pollution sources as human population density increases and brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. As a result, the runoff leaving the developed urban area is significantly greater in pollutant load than the pre-development runoff from the same area. These increased pollutant loads must be controlled to protect downstream receiving water quality.

12. Development and urbanization especially threaten environmentally sensitive areas (ESAs), such as water bodies designated as supporting a RARE beneficial use (supporting rare, threatened or endangered species) and CWA 303(d)-impaired water bodies. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in other areas. In essence, development that is ordinarily insignificant in its impact on the environment may become significant in a particularly sensitive environment. Therefore, additional control to reduce storm water pollutants from new and existing development may be necessary for areas adjacent to or discharging directly to an ESA.

13. Although dependent on several factors, the risks typically associated with properly managed infiltration of runoff (especially from residential land use areas) are not significant. The risks associated with infiltration can be managed by many techniques, including (1) designing landscape drainage features that promote infiltration of runoff, but do not “inject” runoff (injection bypasses the natural processes of filtering and transformation that occur in the soil); (2) taking reasonable

steps to prevent the illegal disposal of wastes; (3) protecting footings and foundations; (4) ensuring that each drainage feature is adequately maintained in perpetuity; and (5) pretreatment.

14. Non-storm water (dry weather) discharge from the MS4 is not considered a storm water (wet weather) discharge and therefore is not subject to regulation under the Maximum Extent Practicable (MEP) standard from CWA 402(p)(3)(B)(iii), which is explicitly for "Municipal … *Stormwater Discharges* (emphasis added)" from the MS4. Non-storm water discharges, per CWA 402(p)(3)(B)(ii), are to be effectively prohibited. Such dry weather non-storm water discharges have been shown to contribute significant levels of pollutants and flow in arid, developed Southern California watersheds and are to be effectively prohibited under the Clean Water Act.

15. Non-storm water discharges to the MS4 granted an influent exception [i.e., which are exempt from the effective prohibition requirement set forth in CWA section 402(p)(3)(B)(ii)] under 40 CFR 122. 26 are included within this Order. Any exempted discharges identified by Copermittees as a source of pollutants are subsequently required to be *addressed* (emphasis added) as illicit discharges through prohibition and incorporation into existing IC/ID programs. The Copermittees have identified landscape irrigation, irrigation water and lawn water, previously exempted discharges, as a source of pollutants and conveyance of pollutants to waters of the United States.

D. RUNOFF MANAGEMENT PROGRAMS

1. General

a. This Order specifies requirements necessary for the Copermittees to reduce the discharge of pollutants in storm water runoff to the maximum extent practicable (MEP). However, since MEP is a dynamic performance standard, which evolves over time as runoff management knowledge increases, the Copermittees' runoff management programs must continually be assessed and modified to incorporate improved programs, control measures, best management practices (BMPs), etc. in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of runoff management program implementation is expected to ultimately achieve compliance with water quality standards in the Region.

b. The Copermittees have generally been implementing the jurisdictional runoff management programs required pursuant to Order No. 2002-01 since February 13, 2003. Prior to that, the Copermittees were regulated by Order No. 96-03 since August 8, 1996. Runoff discharges, however, continue to cause or contribute to violations of water quality standards as evidenced by the Copermittees monitoring results.

c. This Order contains new or modified requirements that are necessary to improve Copermittees' efforts to reduce the discharge of pollutants in storm water runoff to the MEP and achieve water quality standards. Some of the new or modified requirements, such as the revised Watershed Runoff Management Program section, are designed to specifically address high priority water quality problems. Other new or modified requirements address program deficiencies that have been noted during audits, report reviews, and other Regional Board compliance assessment activities.

d. Updated Jurisdictional Runoff Management Plans (JRMPs) and Watershed Runoff Management Plans (WRMPs), which describe the Copermittees' runoff management programs in their entirety, are needed to guide the Copermittees' runoff management efforts and aid the Copermittees in tracking runoff management program implementation. It is practicable for the Copermittees to update the JRMPs and WRMPs within one year, since significant efforts to develop these programs have already occurred.

e. Pollutants can be effectively reduced in storm water runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Pollution prevention is the reduction or elimination of pollutant generation at its source and is the best "first line of defense." Source control BMPs (both structural and non-structural) minimize the contact between pollutants and flows (e.g., rerouting run-on around pollutant sources or keeping pollutants on-site and out of receiving waters). Treatment control BMPs remove pollutants that have been mobilized by wet-weather or dry-weather flows.

f. Runoff needs to be addressed during the three major phases of urban development (planning, construction, and use) in order to reduce the discharge of pollutants from storm water to the MEP, effectively prohibit non-storm water discharges and protect receiving waters. Development which is not guided by water quality planning policies and principles can unnecessarily result in increased pollutant load discharges, flow rates, and flow durations which can negatively impact receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development generates substantial pollutant loads which are discharged in runoff to receiving waters.

g. Annual reporting requirements included in this Order are necessary to meet federal requirements and to evaluate the effectiveness and compliance of the Copermittees' programs.

h. This Order establishes Storm Water Action Levels (SALs) for selected pollutants based on USEPA Rain Zone 6 (arid southwest) Phase I MS4 monitoring data for pollutants in storm water. The SALs were computed as the 90th percentile of the data set, utilizing the statistical based population approach, one of three

approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). SALs are identified in Section D of this Order. Copermittees shall implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the SALs. Exceedance of SALs may indicate inadequacy of programmatic measures and BMPs required in this Order.

2. **Development Planning**

a. The Standard Storm Water Mitigation Plan (SSMP) requirements contained in this Order are consistent with Order WQ-2000-11 adopted by the State Water Resources Control Board (State Board) on October 5, 2000. In the precedential order, the State Board found that the design standards, which essentially require that runoff generated by 85 percent of storm events from specific development categories be infiltrated or treated, reflect the MEP standard. The order also found that the SSMP requirements are appropriately applied to the majority of the Priority Development Project categories contained in Section D.1 of this Order. The State Board also gave Regional Water Quality Control Boards the needed discretion to include additional categories and locations, such as retail gasoline outlets (RGOs), in SSMPs.

b. Controlling runoff pollution by using a combination of onsite source control and site design BMPs augmented with treatment control BMPs before the runoff enters the MS4 is important for the following reasons: (1) Many end-of-pipe BMPs (such as diversion to the sanitary sewer) are typically ineffective during significant storm events. Whereas, onsite source control BMPs can be applied during all runoff conditions; (2) End-of-pipe BMPs are often incapable of capturing and treating the wide range of pollutants which can be generated on a sub-watershed scale; (3) End-of-pipe BMPs are more effective when used as polishing BMPs, rather than the sole BMP to be implemented; (4) End-of-pipe BMPs do not protect the quality or beneficial uses of receiving waters between the pollutant source and the BMP; and (5) Offsite end-of-pipe BMPs do not aid in the effort to educate the public regarding sources of pollution and their prevention.

c. Use of Low-Impact Development (LID) site design BMPs at new development, redevelopment and retrofit projects can be an effective means for minimizing the impact of storm water runoff discharges from the development projects on receiving waters. LID is a site design strategy with a goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques. LID site design BMPs help preserve and restore the natural hydrologic cycle of the site, allowing for filtration and infiltration which can greatly reduce the volume, peak flow rate, velocity, and pollutant loads of storm water runoff. Current runoff management, knowledge, practices and technology have

resulted in the use of LID BMPs as an acceptable means of meeting the storm water MEP standard.

d. Retail Gasoline Outlets (RGOs) are significant sources of pollutants in storm water runoff. RGOs are points of convergence for motor vehicles for automotive related services such as repair, refueling, tire inflation, and radiator fill-up and consequently produce significantly higher loadings of hydrocarbons and trace metals (including copper and zinc) than other developed areas.

e. Industrial sites are significant sources of pollutants in runoff. Pollutant concentrations and loads in runoff from industrial sites are similar or exceed pollutant concentrations and loads in runoff from other land uses, such as commercial or residential land uses. As with other land uses, LID site design, source control, and treatment control BMPs are needed at industrial sites in order to meet the MEP standard. These BMPs are necessary where the industrial site is larger than 10,000 square feet. The 10,000 square feet threshold is appropriate, since it is consistent with requirements in other Phase I NPDES storm water regulations throughout California.

f. If not properly designed or maintained, certain BMPs implemented or required by municipalities for runoff management may create a habitat for vectors (e.g. mosquitoes and rodents). Proper BMP design and maintenance to avoid standing water, however, can prevent the creation of vector habitat. Nuisances and public health impacts resulting from vector breeding can be prevented with close collaboration and cooperative effort between municipalities, the Orange County Vector Control District, and the California Department of Public Health during the development and implementation of runoff management programs.

g. The increased volume, velocity, frequency and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion, impair stream habitat in natural drainages, and negatively impact beneficial uses. Development and urbanization increase pollutant loads in storm water runoff and the volume of storm water runoff. Impervious surfaces can neither absorb water nor remove pollutants and thus lose the purification and infiltration provided by natural vegetated soil. Hydromodification measures for discharges to hardened channels are needed for the future restoration of the hardened channels to their natural state, thereby restoring the chemical, physical, and biological integrity and Beneficial Uses of local receiving waters.

3. **Construction and Existing Development**

a. In accordance with federal NPDES regulations and to ensure the most effective oversight of industrial and construction site discharges, discharges of runoff from industrial and construction sites are subject to dual (State and local) storm water regulation. Under this dual system, each Copermittee is responsible for enforcing its local permits, plans, and ordinances, and the Regional Board is

responsible for enforcing the General Construction Activities Storm Water Permit, State Board Order 99-08 DWQ, NPDES No. CAS000002 (General Construction Permit) and the General Industrial Activities Storm Water Permit, State Board Order 97-03 DWQ, NPDES No. CAS000001 (General Industrial Permit) and any reissuance of these permits. NPDES municipal regulations require that municipalities develop and implement measures to address runoff from industrial and construction activities. Those measures may require the implementation of additional BMPs than are required under the statewide general permits for activities subject to both State and local regulation.

b. Identification of sources of pollutants in runoff (such as municipal areas and activities, industrial and commercial sites/sources, construction sites, and residential areas), development and implementation of BMPs to address those sources, and updating ordinances and approval processes are necessary for the Copermittees to ensure that discharges of pollutants from its MS4 in storm water are reduced to the MEP and that non-storm water discharges are not occurring. Inspections and other compliance verification methods are needed to ensure minimum BMPs are implemented. Inspections are especially important at high risk areas for pollutant discharges.

c. Historic and current development makes use of natural drainage patterns and features as conveyances for runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, anthropogenic, or partially modified features. In these cases, the urban stream is both an MS4 and receiving water.

d. As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.

e. Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed. These discharges may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. For this reason, pollutant discharges from storm water into MS4s must be reduced using a combination of management measures, including source control, and an effective MS4 maintenance program must be implemented by each Copermittee.

f. Enforcement of local runoff related ordinances, permits, and plans is an essential component of every runoff management program and is specifically required in the federal storm water regulations and this Order. Each Copermittee is individually responsible for adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent

or reduce pollutants in storm water runoff, and for the allocation of funds for the capital, operation and maintenance, administrative, and enforcement expenditures necessary to implement and enforce such control measures/BMPs under its jurisdiction. Education is an important aspect of every effective runoff management program and the basis for changes in behavior at a societal level. Education of municipal planning, inspection, and maintenance department staffs is especially critical to ensure that in-house staffs understand how their activities impact water quality, how to accomplish their jobs while protecting water quality, and their specific roles and responsibilities for compliance with this Order. Public education, designed to target various urban land users and other audiences, is also essential to inform the public of how individual actions affect receiving water quality and how adverse effects can be minimized.

g. Public participation during the development of runoff management programs is necessary to ensure that all stakeholder interests and a variety of creative solutions are considered.

h. Retrofitting existing development with storm water treatment controls, including LID, is necessary to address storm water discharges from existing development that may cause or contribute to a condition of pollution or a violation of water quality standards. Although SSMP BMPs are required for redevelopment, the current rate of redevelopment will not address water quality problems in a timely manner. Cooperation with private landowners is necessary to effectively identify, implement and maintain retrofit projects for the preservation, restoration, and enhancement of water quality.

4. **Watershed Runoff Management**

a. Since runoff within a watershed can flow from and through multiple land uses and political jurisdictions, watershed-based runoff management can greatly enhance the protection of receiving waters. Such management provides a means to focus on the most important water quality problems in each watershed. By focusing on the most important water quality problems, watershed efforts can maximize protection of beneficial use in an efficient manner. Effective watershed-based runoff management actively reduces pollutant discharges and abates pollutant sources causing or contributing to watershed water quality problems. Watershed-based runoff management that does not actively reduce pollutant discharges and abate pollutant sources causing or contributing to watershed water quality problems can necessitate implementation of the iterative process outlined in section A.3 of the Tentative Order. Watershed management of runoff does not require Copermittees to expend resources outside of their jurisdictions. Watershed management requires the Copermittees within a watershed to develop a watershed-based management strategy, which can then be implemented on a jurisdictional basis.

b. Some runoff issues, such as general education and training, can be effectively addressed on a regional basis. Regional approaches to runoff management can improve program consistency and promote sharing of resources, which can result in implementation of more efficient programs.

c. It is important for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies. Copermittee coordination with other watershed stakeholders, especially the State of California Department of Transportation, the United States Department of Defense, and water and sewer districts, is also important.

E. STATUTE AND REGULATORY CONSIDERATIONS

1. The Receiving Water Limitations (RWL) language specified in this Order is consistent with language recommended by the USEPA and established in State Board Water Quality Order 99-05, *Own Motion Review of the Petition of Environmental Health Coalition to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740*, adopted by the State Board on June 17, 1999. The RWL in this Order require compliance with water quality standards, which for storm water discharges is to be achieved through an iterative approach requiring the implementation of improved and better-tailored BMPs over time. Compliance with receiving water limits based on applicable water quality standards is necessary to ensure that MS4 discharges will not cause or contribute to violations of water quality standards and the creation of conditions of pollution.

2. The Water Quality Control Plan for the San Diego Basin (Basin Plan), identifies the following beneficial uses for surface waters in Orange County: Municipal and Domestic Supply (MUN)[2], Agricultural Supply (AGR), Industrial Process Supply (PROC), Industrial Service Supply (IND), Ground Water Recharge (GWR), Contact Water Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Freshwater Replenishment (FRSH), Hydropower Generation (POW), and Preservation of Biological Habitats of Special Significance (BIOL). The following additional beneficial uses are identified for coastal waters of Orange County: Navigation (NAV), Commercial and Sport Fishing (COMM), Estuarine Habitat (EST), Marine Habitat (MAR), Aquaculture (AQUA), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), and Shellfish Harvesting (SHELL).

3. This Order is in conformance with State Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*, and the federal Antidegradation Policy described in 40 CFR 131.12.

[2] Subject to exceptions under the "Sources of Drinking Waters" Policy (Resolution No. 89-33)

4. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The adoption and implementation of this NPDES permit relieves the Copermittee from developing a non-point source plan, for the urban category, under CZARA. The Regional Board addresses septic systems through the administration of other programs.

5. Section 303(d)(1)(A) of the CWA requires that "Each state must identify those waters within its boundaries for which the effluent limitations…are not stringent enough to implement any water quality standard (WQS) applicable to such waters." The CWA also requires states to establish a priority ranking of impaired water bodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired water bodies is called the Section 303(d) List. The current Section 303(d) List was approved by the State Board on October 25, 2006. On June 28, 2007 the 2006 303(d) list for California was given final approval by the United States Environmental Protection Agency (USEPA).

6. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIIIB, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. First, this Order implements federally mandated requirements under federal Clean Water Act section 402. (33 U.S.C. § 1342(p)(3)(B).) Second, the local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental and new dischargers who are issued NPDES permits for storm water and non-storm water discharges. Third, the local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. Fourth, the Copermittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their storm water discharges. Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under State law predates the enactment of Article XIIIB, Section (6) of the California Constitution. Likewise, the provisions of this Order to implement total maximum daily loads (TMDLs) are federal mandates. The federal Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. sec. 1313(d).) Once the U.S. Environmental Protection Agency or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 C.F.R. sec. 122.44(d)(1)(vii)(B).)

7. Runoff treatment and/or mitigation must occur prior to the discharge of runoff into receiving waters. Treatment BMPs must not be constructed in waters of the U.S. or State unless the runoff flows are sufficiently pretreated to protect the values and functions of the water body. Federal regulations at 40 CFR 131.10(a) state that in no case shall a state adopt waste transport or waste assimilation as a designated use for any waters of the U.S. Authorizing the construction of an runoff treatment facility within a water of the U.S., or using the water body itself as a treatment system or for conveyance to a treatment system, would be tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body. Without federal authorization (e.g., pursuant to Clean Water Act Section 404), waters of the U.S. may not be converted into, or used as, waste treatment or conveyance facilities. Similarly, waste discharge requirements pursuant to California Water Code Section 13260 are required for the conversion or use of waters of the State as waste treatment or conveyance facilities. Diversion from waters of the U.S./State to treatment facilities and subsequent return to waters of the U.S. is allowable, provided that the effluent complies with applicable NPDES requirements.

8. The issuance of waste discharge requirements and an NPDES permit for the discharge of runoff from MS4s to waters of the U.S. is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with the CWC section 13389.

9. Multiple water bodies in Orange County have been identified as impaired and placed on the 303(d) list. In 2004, Bacteria Impaired Waters TMDL Project II included six bacteria impaired shorelines in Dana Point Harbor and San Diego Bay: Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park, B Street, G Street Pier, Tidelands Park, and Chula Vista Marina in San Diego Bay. Since then, only Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay can be confirmed as still impaired by indicator bacteria. On June 11, 2008 the Regional Board adopted a Basin Plan amendment to incorporate *Bacteria Impaired Waters TMDL Project II for San Diego Bay and Dana Point Harbor Shorelines*. On June 16, 2009, the State Board approved the Basin Plan amendment. This action meets requirements of section 303(d) of the Clean Water Act (CWA). The Basin Plan amendment process is authorized under section 13240 of the Water Code. The State's Office of Administrative Law (OAL) approved the TMDLs on September 15, 2009. The effective date of the TMDLs is the date of OAL approval. USEPA approved the TMDLs on October 26, 2009.

10. Storm water discharges from developed and developing areas in Orange County are significant sources of certain pollutants that cause, may be causing, threatening to cause or contributing to water quality impairment in the waters of Orange County.

Furthermore, as delineated in the CWA section 303(d) list in Table 3, the Regional Board has found that there is a reasonable potential that municipal storm water and non-storm water discharges from MS4s cause or may cause or contribute to an excursion above water quality standards for the following pollutants: Indicator Bacteria, Phosphorous, Toxicity and Turbidity. In accordance with CWA section 303(d), the Regional Board is required to establish Total Maximum Daily Loads (TMDLs) for these pollutants to these waters to eliminate impairment and attain water quality standards. Therefore, certain early pollutant control actions and further pollutant impact assessments by the Copermittees are warranted and required pursuant to this Order.

Table 3. 2006 Section 303(d) Listed Waterbodies in So. Orange County

Waterbody	**Pollutant**
Aliso Creek	Indicator Bacteria, Phosphorus, Toxicity
Aliso Creek Mouth	Indicator Bacteria
Dana Point Harbor	Indicator Bacteria
English Canyon Creek	Benzo[b]fluoranthene, Dieldrin, Sediment Toxicity
Laguna Canyon Channel	Sediment Toxicity
Oso Creek (at Mission Viejo Golf Course)	Chloride, Sulfates, Total Dissolved Solids
Pacific Ocean Shoreline, Aliso HSA	Indicator Bacteria
Pacific Ocean Shoreline, Dana Point HSA	Indicator Bacteria
Pacific Ocean Shoreline, Laguna Beach HSA	Indicator Bacteria
Pacific Ocean Shoreline, Lower San Juan HSA	Indicator Bacteria
Pacific Ocean Shoreline, San Clemente HA	Indicator Bacteria
Pacific Ocean Shoreline, San Joaquin Hills HSA	Indicator Bacteria
Prima Deshecha Creek	Phosphorus, Turbidity
San Juan Creek	DDE, Indicator Bacteria
San Juan Creek (mouth)	Indicator Bacteria
Segunda Deshecha Creek	Phosphorus, Turbidity

11. This Order incorporates only those MS4 Waste Load Allocations (WLAs) developed in TMDLs that have been adopted by the Regional Water Board and have been approved by the State Board, Office of Administrative Law and U.S. EPA. Approved TMDL WLAs are to be addressed using water quality-based effluent limitations (WQBELs) calculated as numeric limitations (either in the receiving waters and/or at the point of MS4 discharge) and/or as BMPs. In most cases, the numeric limitation must be achieved to ensure the adequacy of the BMP program. Waste load

allocations for storm water and non-storm water discharges have been included within this Order only if the TMDL has received all necessary approvals. This Order establishes WQBELs and conditions consistent with the requirements and assumptions of the WLAs in the TMDLs as required by 40 CFR 122.44(d)(1)(vii)(B).

A TMDL is the total amount of a particular pollutant that a water body can receive and still meet Water Quality Standards (WQSs), which are comprised of Water Quality Objectives (WQOs), Beneficial Uses and the States Policy on Maintaining High Quality Waters[3]. The WQOs serve as the primary basis for protecting the associated Beneficial Use. The Numeric Target of a TMDL interprets and applies the numeric and/or narrative WQOs of the WQSs as the basis for the WLAs. This Order addresses TMDLs through Water Quality Based Effluent Limitations (WQBELs) that must be consistent with the assumptions and requirements of the WLA[4]. Federal guidance[5] states that when adequate information exists, storm water permits are to incorporate numeric water quality based effluent limitations. In most cases, the numeric target(s) of a TMDL are a component of the WQBELs. When the numeric target is based on one or more numeric WQOs, the numeric WQOs and underlying assumptions and requirements will be used in the WQBELs as numeric effluent limitations by the end of the TMDL compliance schedule, unless additional information is required. When the numeric target interprets one or more narrative WQOs, the numeric target may assess the efficacy and progress of the BMPs in meeting the WLAs and restoring the Beneficial Uses by the end of the TMDL compliance schedule.

This Order fulfills a component of the TMDL Implementation Plan adopted by this Regional Board on June 11, 2008 for indicator bacteria in Baby Beach by establishing WQBELs expressed as both BMPs to achieve the WLAs and as numeric limitations[6] for the City of Dana Point and the County of Orange. The establishment of WQBELs expressed as BMPs should be sufficient to achieve the WLA specified in the TMDL. The Waste Load Allocations (WLAs) and Numeric Targets are the necessary metrics to ensure that the BMPs achieve appropriate concentrations of bacterial indicators in the receiving waters.

[3] State Water Resources Control Board, Resolution No. 68-16
[4] 40 CFR 122.44(d)(1)(vii)(B)
[5] USEPA, *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits,* 61 FR 43761, August 26, 1996
[6] The Waste Load Allocations are defined in Resolution No. R9-2008-0027, A Resolution to Adopt an Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay.

12. This Order requires each Copermittee to effectively prohibit all types of unauthorized discharges of non-storm water into its MS4. However, historically pollutants have been identified as present in dry weather non-storm water discharges from the MS4s through 303(d) listings, monitoring conducted by the Copermittees under Order No. R9-2002-0001, and there are others expected to be present in dry weather non-storm water discharges because of the nature of these discharges. This Order includes action levels for pollutants in non-storm water, dry weather, discharges from the MS4 designed to ensure that the requirement to effectively prohibit all types of unauthorized discharges of non-storm water in the MS4 is being complied with. Action levels in the Order are based upon numeric or narrative water quality objectives and criteria as defined in the Basin Plan, the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and the State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). An exceedance of an action level requires specified responsive action by the Copermittees. This Order describes what actions the Copermittees must take when an exceedance of an action level is observed. Exceedances of non-storm water action levels do not alone constitute a violation of this Order but could indicate non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions established in this Order. Failure to undertake required source investigation and elimination action following an exceedance of 2a non-storm water action level (NAL or action level) is a violation of this Order. The Regional Board recognizes that use of action levels will not necessarily result in detection of all unauthorized sources of non-storm water discharges because there may be some discharges in which pollutants do not exceed established action levels. However, establishing NALs at levels appropriate to protect water quality standards is expected to lead to the identification of significant sources of pollutants in dry weather non-storm water discharges.

13. In addition to federal regulations cited in the Fact Sheet / Technical Report for the Order NO. R9-2009-0002, monitoring and reporting required under Order No. R9-2009-0002 is required pursuant to authority under CWC section 13383.

F. PUBLIC PROCESS

1. The Regional Board has notified the Copermittees, all known interested parties, and the public of its intent to consider adoption of an Order prescribing waste discharge requirements that would serve to renew an NPDES permit for the existing discharge of runoff.

2. The Regional Board has held public hearings on April 11, 2007, February 13, 2008, July 1, 2009, and November 18, 2009 and heard and considered all comments pertaining to the terms and conditions of this Order.

IT IS HEREBY ORDERED that the Copermittees, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the Clean Water Act (CWA) and regulations adopted thereunder, must each comply with the following:

A. PROHIBITIONS AND RECEIVING WATER LIMITATIONS

1. Discharges into and from municipal separate storm sewer systems (MS4s) in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance (as defined in CWC section 13050), in waters of the state are prohibited.

2. Storm water discharges from MS4s containing pollutants which have not been reduced to the maximum extent practicable (MEP) are prohibited.[7]

3. Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses, water quality objectives developed to protect beneficial uses, and the State policy with respect to maintaining high quality waters) are prohibited.

a. Each Copermittee must comply with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order through timely implementation of control measures and other actions to reduce pollutants in storm water discharges in accordance with this Order, including any modifications. If exceedance(s) of water quality standards persist notwithstanding implementation of this Order, the Copermittee must assure compliance with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order by complying with the following procedure:

(1) Upon a determination by either the Copermittee or the Regional Board that storm water MS4 discharges are causing or contributing to an exceedance of an applicable water quality standard, the Copermittee must notify the Regional Board within 30 days and thereafter submit a report to the Regional Board that describes best management practices (BMPs) that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the Annual Report unless the Regional Board directs an earlier submittal. The report must include an implementation schedule. The Regional Board may require modifications to the report;

[7] This prohibition does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer).

(2) Submit any modifications to the report required by the Regional Board within 30 days of notification;

(3) Within 30 days following approval of the report described above by the Regional Board, the Copermittee must revise its Jurisdictional Runoff Management Program and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required; and

(4) Implement the revised Jurisdictional Runoff Management Program and monitoring program in accordance with the approved schedule.

b. The Copermittee must repeat the procedure set forth above to comply with the receiving water limitations for continuing or recurring exceedances of the same water quality standard(s) unless directed to do otherwise by the Regional Board Executive Officer.

c. Nothing in section A.3 must prevent the Regional Board from enforcing any provision of this Order while the Copermittee prepares and implements the above report.

4. In addition to the above prohibitions, discharges from MS4s are subject to all Basin Plan prohibitions cited in Attachment A to this Order.

B. NON-STORM WATER DISCHARGES

1. Each Copermittee must effectively prohibit all types of non-storm water discharges into its MS4 unless such discharges are either authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit; or not prohibited in accordance with sections B.2 and B.3 below.

2. The following categories of non-storm water discharges are not prohibited unless a Copermittee or the Regional Board identifies the discharge category as a source of pollutants to waters of the U.S. Where the Copermittee(s) have identified a category as a source of pollutants, the category shall be addressed as an illicit discharge and prohibited through ordinance, order or similar means. The Regional Board may identify categories of discharge that either requires prohibition or other controls. For such a discharge category, the Copermittee, under direction of the Regional Board, must either prohibit the discharge category or develop and implement appropriate control measures to prevent the discharge of pollutants to the MS4 and report to the Regional Board pursuant to Section K.1 and K.3 of this Order.

a. Diverted stream flows;
b. Rising ground waters;
c. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to

MS4s;
- **d.** Uncontaminated pumped ground water[8];
- **e.** Foundation drains[8];
- **f.** Springs;
- **g.** Water from crawl space pumps[8];
- **h.** Footing drains[8];
- **i.** Air conditioning condensation;
- **j.** Flows from riparian habitats and wetlands;
- **k.** Water line flushing[9,10];
- **l.** Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
- **m.** Individual residential car washing; and
- **n.** Dechlorinated swimming pool discharges[11].

3. Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require BMPs and need not be prohibited. As part of the Jurisdictional Runoff Management Plan (JRMP), each Copermittee must develop and implement a program to address pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) identified by the Copermittee to be significant sources of pollutants to waters of the United States.

a. Building fire suppression system maintenance discharges (e.g. sprinkler line flushing) contain waste. Therefore, such discharges are to be prohibited by the Copermittees as illicit discharges through ordinance, order, or similar means.

4. Each Copermittee must examine all dry weather effluent analytical monitoring results collected in accordance with section F.4 of this Order and Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-0002 to identify water quality problems which may be the result of any non-prohibited discharge category(ies) identified above in section B.2. Follow-up investigations must be conducted as necessary to identify and control, pursuant to section B.2, any non-prohibited discharge category(ies) listed above.

[8] Requires enrollment under Order R9-2008-002. Discharges into the MS4 require authorization from the owner and operator of the MS4 system.
[9] This exemption does not include fire suppression sprinkler system maintenance and testing discharges. Those discharges may be regulated under Section B.3.
[10] Requires enrollment under Order R9-2002-0020.
[11] Including saline swimming pool discharges directly to a saline water body.

C. NON-STORM WATER DRY WEATHER ACTION LEVELS

1. Each Copermittee, beginning no later than May 1, 2011, shall implement the non-storm water dry weather action level (NAL) monitoring as described in Attachment E of this Order.

2. In response to an exceedance of an NAL, each Copermittee must investigate and identify the source of the exceedance in a timely manner. However, if any Copermittee identifies exceedances of NALs that prevent them from adequately conducting source investigations in a timely manner, then the Copermittees may submit a prioritization plan and timeline that identifies the timeframe and planned actions to investigate and report their findings on all of the exceedances. Following the source investigation and identification, the Copermittees must submit an action report dependant on the source of the pollutant exceedance as follows:

a. If the Copermittee identifies the source of the exceedance as natural (non-anthropogenically influenced) in origin and in conveyance into the MS4; then the Copermittee shall report their findings and documentation of their source investigation to the Regional Board within fourteen days of the source identification.

b. If the Copermittee identifies the source of the exceedance as an illicit discharge or connection, then the Copermittees must eliminate the discharge to their MS4 and report the findings, including any enforcement action(s) taken, and documentation of the source investigation to the Regional Board within fourteen days of the source identification. If the Copermittee is unable to eliminate the source of discharge within fourteen days, then the Copermittee must submit, as part of their action report, their plan and timeframe to eliminate the source of the exceedance. Those dischargers seeking to continue such a discharge must become subject to a separate NPDES permit prior to continuing any such discharge.

c. If the Copermittee identifies the source of the exceedance as an exempted category of non-storm water discharge, then the Copermittees must determine if this is an isolated circumstance or if the category of discharges must be addressed through the prevention or prohibition of that category of discharge as an illicit discharge. The Copermittee must submit their findings in including a description of the steps taken to address the discharge and the category of discharge, to the Regional Board for review with the next subsequent annual report. Such description shall include relevant updates to or new ordinances, orders, or other legal means of addressing the category of discharge. The Copermittees must also submit a summary of their findings with the Report of Waste Discharge.

d. If the Copermittee identifies the source of the exceedance as a non-storm water discharge in violation or potential violation of an existing separate NPDES permit

(e.g. the groundwater dewatering permit), then the Copermittee must report, within three business days, the findings to the Regional Board including all pertinent information regarding the discharger and discharge characteristics.

e. If the Copermittee is unable to identify the source of the exceedance after taking and documenting reasonable steps to do so, then the Copermittee must identify the pollutant as a high priority pollutant of concern in the tributary subwatershed, perform additional focused sampling and update their programs within a year to reflect this priority. The Copermittee's annual report shall include these updates to their programs including, where applicable, updates to their watershed workplans (Section G.2), retrofitting consideration (Section F.3.d) and program effectiveness work plans (Section J.4).

f. The Copermittees or any interested party, may evaluate existing NALs and propose revised NALs for future Board consideration.

3. An exceedance of an NAL does not alone constitute a violation of the provisions of this Order, but an exceedance of an NAL may indicate lack of compliance with the requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions set forth in Sections A and B of this Order. Failure to timely implement required actions specified in this Order following an exceedance of an NAL constitutes a violation of this Order. However, neither compliance with NALs nor compliance with required actions following observed exceedances, excuses any non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4s or any non-compliance with the prohibitions in Sections A and B of this Order. NALs provide an assessment of the effectiveness of the prohibition of non-storm water discharges and of the appropriateness of exempted non-storm water discharges. During any annual reporting period in which one or more exceedances of NALs have been documented the Copermittee must submit with their next scheduled annual report, a report describing whether and how the observed exceedances did or did not result in a discharge form the MS4 that caused, or threatened to cause or contribute to a condition of pollution, contamination, or nuisance in the receiving waters.

4. Monitoring of effluent will occur at the end-of-pipe prior to discharge into the receiving waters, with a focus on Major Outfalls, as defined in 40 CFR 122.26(B 5-6) and Attachment E of this Order. The Copermittees must develop their monitoring plans to sample a representative percentage of major outfalls and identified stations within each hydrologic subarea. At a minimum, outfalls that exceed any NALs once during any year must be monitored in the subsequent year. Any station that does not exceed an NAL for 3 years may be replaced with a different station.

5. Each Copermittee shall monitor for the non-storm water dry weather action levels, which are incorporated into this Order as follows:

a. Action levels for discharges to inland surface waters:

Table 4.a.1: General Constituents

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Fecal Coliform	MPN/ 100 ml	200[A] 400[B]	-		BPO
Enterococci	MPN/ 100 ml	33	-	104[C]	BPO/OP
Turbidity	NTU	-	20		BPO
pH	Units	Within limit of 6.5 to 8.5 at all times			BPO
Dissolved Oxygen	mg/L	Not less than 5.0 in WARM waters and not less than 6.0 in COLD waters			BPO
Total Nitrogen	mg/L	-	1.0	See MDEL	BPO
Total Phosphorus	mg/L	-	0.1	See MDEL	BPO
Methylene Blue Active Substances	mg/L	-	0.5	See MDEL	BPO

A – Based on a minimum of not less than five samples for any 30-day period
B – No more than 10 percent of total samples may exceed 400 per 100 ml during any 30 day period
C – This Value has been set to Ocean Plan Criteria for Designated Beach Areas
BPO – Basin Plan Objective OP – Ocean Plan
MDAL – Maximum Daily Action Level AMAL – Average Monthly Action Level

Table 4.a.2: Priority Pollutants

		Freshwater (CTR)		Saltwater (CTR)	
Parameter	Units	MDAL	AMAL	MDAL	AMAL
Cadmium	ug/L	*	*	16	8
Copper	ug/L	*	*	5.8	2.9
Chromium III	ug/L	*	*	-	-
Chromium VI (hexavalent)	ug/L	16	8.1	83	41
Lead	ug/L	*	*	14	2.9
Nickel	ug/L	*	*	14	6.8
Silver	ug/L	*	*	2.2	1.1
Zinc	ug/L	*	*	95	47

CTR – California Toxic Rule
* - Action Levels developed on a case-by-case basis (see below)

The NALs for Cadmium, Copper, Chromium (III), Lead, Nickel, Silver and Zinc will be developed on a case-by-case basis because the freshwater criteria are based on site-specific water quality data (receiving water hardness). For these priority pollutants, the following equations (40 CFR 131.38.b.2) will be required:

Cadmium (Total Recoverable) = exp(0.7852[ln(hardness)] -2.715)
Chromium III (Total Recoverable) = exp(0.8190[ln(hardness)] + .6848)
Copper (Total Recoverable) = exp(0.8545[ln(hardness)] - 1.702)
Lead (Total Recoverable) = exp(1.273[ln(hardness)] - 4.705)

Nickel (Total Recoverable) = exp(.8460[ln(hardness)] + 0.0584)
Silver (Total Recoverable) = exp(1.72[ln(hardness)] - 6.52)
Zinc (Total Recoverable) = exp(0.8473[ln(hardness)] + 0.884)

b. Action levels for discharges to bays, harbors and lagoons/estuaries:

Table 4.b: General Constituents

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Total Coliform	MPN/100 ml	1,000	-	10,000	BPO
Fecal Coliform	MPN/100 ml	200[A] ,400[B]	-		BPO
Enterococci	MPN/100 ml	35	-	104[C]	BPO
Turbidity	NTU	75	-	225	OP
pH	Units	Within limit of 6.0 to 9.0 at all times			OP
Priority Pollutants	ug/L	See limitations in Table 4.a.2			

A – Based on a minimum of not less than five samples for any 30-day period
B – No more than 10 percent of total samples may exceed 400 per 100 ml during any 30 day period
C – Designated Beach Areas
OP – California Ocean Plan 2005 BPO – Basin Plan Objective
MDAL – Maximum Daily Action Level AMAL – Average Monthly Action Level

c. Action levels for discharges to the surf zone:

Table 4.c: General Constituents

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Total Coliform	MPN/100 ml	1,000	-	10,000 1,000[A]	OP
Fecal Coliform	MPN/100 ml	200[B]	-	400	OP
Enterococci	MPN/100 ml	35	-	104[C]	OP

A – Total coliform density shall not exceed 1,000 per 100 ml when the ratio of fecal/total coliform exceeds 0.1
B – During any 30 day period
C – Designated Beach Areas
OP – California Ocean Plan 2005

D. STORM WATER ACTION LEVELS

1. Beginning Year 3 after Order adoption date, a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the United States that exceed the Storm Water Action Levels (SALs) for the pollutants listed in Table 5 (below) will require each Copermittee to affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutants(s) to the MEP standard. The Copermittees must utilize the exceedance information when adjusting and executing annual work plans, as required by this Order. Copermittees shall take the magnitude, frequency, and number of constituents exceeding the SAL(s), in addition to receiving water quality data and other information, into consideration when reacting to SAL exceedances in an iterative manner. Failure to appropriately consider and react to SAL exceedances in an iterative manner creates a presumption that the Copermittee(s) have not complied with the MEP standard.

Table 5. Storm Water Action Levels

Pollutant	Action Level
Turbidity (NTU)	126
Nitrate & Nitrite total (mg/L)	2.6
P total (mg/L)	1.46
Cd total (µg/L)	3.0
Cu total (µg/L)	127
Pb total (µg/L)	250
Ni total (µg/L)	54
Zn total (µg/L)	976

2. The end-of-pipe assessment points for the determination of SAL compliance are all major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6). The Copermittees must develop their monitoring plans to sample a representative percent of the major outfalls within each hydrologic subarea. At a minimum, outfalls that exceed SALs must be monitored in the subsequent year. Any station that does not exceed an SAL for 3 years may be replaced with a different station. SAL samples must be 24 hour time weighted composites.

3. The absence of SAL exceedances does not relieve the Copermittees from implementing all other required elements of this Permit.

4. This Permit does not regulate natural sources and conveyances of constituents listed in Table 5. To be relieved of the requirements to prioritize pollutant/watershed combinations for BMP updates and to continue monitoring a station, the Copermittee must demonstrate that the likely and expected cause of the SAL exceedance is not anthropogenic in nature.

5. The SALs will be reviewed and updated at the end of every permit cycle. The data collected pursuant to D.2 above can be used to create SALs based upon local data.

It is the goal of the SALs, through the iterative and MEP process, to have outfall storm water discharges meet all applicable water quality standards.

E. LEGAL AUTHORITY

1. Each Copermittee must establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. Nothing herein shall authorize a Co-Permittee or other discharger regulated under the terms of this order to divert, store or otherwise impound water if such action is reasonably anticipated to harm downstream water right holders in the exercise of their water rights. This legal authority must, at a minimum, authorize the Copermittee to:

a. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites. This requirement applies both to industrial and construction sites which have coverage under the statewide general industrial or construction storm water permits, as well as to those sites which do not. Grading ordinances must be updated and enforced as necessary to comply with this Order;

b. Prohibit all identified illicit discharges not otherwise allowed pursuant to section B.2;

c. Prohibit and eliminate illicit connections to the MS4;

d. Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;

e. Require compliance with conditions in Copermittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

f. Utilize enforcement mechanisms to require compliance with Copermittee storm water ordinances, permits, contracts, or orders;

g. Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Copermittees. Control of the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as the State of California Department of Transportation, the United States Department of Defense, or Native American Tribes is encouraged;

h. Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinances and permits and with this Order, including the prohibition on illicit discharges to the MS4. This means the Copermittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities discharging into its MS4, including construction sites;

i. Require the use of BMPs to prevent or reduce the discharge of pollutants into MS4s from storm water to the MEP; and

j. Require documentation on the effectiveness of BMPs implemented to reduce the discharge of storm water pollutants to the MS4 to the MEP.

2. Each Copermittee must submit within 365 days of adoption of this Order, a statement certified by its chief legal counsel that the Copermittee has taken the necessary steps to obtain and maintain full legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Order except for the updated requirements for low impact development and hydromodification in section F.1. Each Copermittee must submit as part of its updated SSMP, a statement certified by its chief legal counsel that the Copermittee has taken the necessary steps to obtain and maintain full legal authority to implement and enforce the low impact development and hydromodification requirements in section F.1. These statements must include:

a. Identification of all departments within the jurisdiction that conduct runoff related activities, and their roles and responsibilities under this Order. Include an up to date organizational chart specifying these departments and key personnel.
b. Citation of runoff related ordinances and the reasons they are enforceable;
c. Identification of the local administrative and legal procedures available to mandate compliance with runoff related ordinances and therefore with the conditions of this Order;
d. A description of how runoff related ordinances are implemented and appealed; and
e. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions.

F. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM (JRMP)

Each Copermittee must implement all requirements of section F of this Order no later than 365 days after adoption of the Order, unless otherwise specified in this Order. Prior to 365 days after adoption of the Order, each Copermittee must at a minimum implement its Jurisdictional RMP document, as the document was developed and amended to comply with the requirements of Order No. R9-2002-001.
Each Copermittee must develop and implement an updated JRMP for its jurisdiction. Each updated JRMP must meet the requirements of section F of this Order, reduce the discharge of storm water pollutants from the MS4 to the MEP, and prevent runoff discharges from the MS4 from causing or contributing to a violation of water quality standards.

1. DEVELOPMENT PLANNING COMPONENT

Each Copermittee must implement a program which meets the requirements of this section and (1) reduces Development Project discharges of storm water pollutants from the MS4 to the MEP; (2) prevents Development Project discharges from the MS4 from causing or contributing to a violation of water quality standards; (3) prevents illicit discharges into the MS4; and (4) manages increases in runoff discharge rates and durations from Development Projects that are likely to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

a. GENERAL PLAN

Each Copermittee must revise as needed its General Plan or equivalent plan (e.g., Comprehensive, Master, or Community Plan) for the purpose of providing effective water quality and watershed protection principles and policies that direct land-use decisions and require implementation of consistent water quality protection measures for all development and redevelopment projects.

b. ENVIRONMENTAL REVIEW PROCESS

Each Copermittee must revise as needed its current environmental review processes to accurately evaluate water quality impacts and cumulative impacts and identify appropriate measures to avoid, minimize and mitigate those impacts for all Development Projects.

c. APPROVAL PROCESS CRITERIA AND REQUIREMENTS FOR ALL DEVELOPMENT PROJECTS

For all proposed Development Projects, each Copermittee during the planning process, and prior to project approval and issuance of local permits, must prescribe the necessary requirements so that Development Project discharges of storm water pollutants from the MS4 will be reduced to the MEP, will not cause or

contribute to a violation of water quality standards, and will comply with Copermittee's ordinances, permits, plans, and requirements, and with this Order. Performance Criteria: Discharges from each approved development project must be subject to the following management measures:

(1) Source control BMPs that reduce storm water pollutants of concern in runoff, including prevention of illicit discharges into the MS4; prevention of irrigation runoff; storm drain system stenciling or signage; properly designed outdoor material storage areas; properly designed outdoor work areas; and properly designed trash storage areas;

(2) The following LID BMPs listed below shall be implemented at all Development Projects where applicable and feasible.

(a) Conserve natural areas, including existing trees, other vegetation, and soils.
(b) Construct streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety is not compromised.
(c) Minimize the impervious footprint of the project.
(d) Minimize soil compaction to landscaped areas.
(e) Minimize disturbances to natural drainages (e.g., natural swales, topographic depressions, etc.)
(f) Disconnect impervious surfaces through distributed pervious areas.

(3) Buffer zones for natural water bodies, where feasible. Where buffer zones are infeasible, require project proponent to implement other buffers such as trees, access restrictions, etc;

(4) Measures necessary so that grading or other construction activities meet the provisions specified in section F.2 of this Order; and

(5) Submittal of proof of a mechanism under which ongoing long-term maintenance of all structural post-construction BMPs will be conducted.

(6) Infiltration and Groundwater Protection

To protect groundwater quality, each Copermittee must apply restrictions to the use of treatment control BMPs that are designed to primarily function as centralized infiltration devices (such as large infiltration trenches and infiltration basins). Such restrictions must be designed so that the use of such infiltration treatment control BMPs must not cause or contribute to an exceedance of groundwater quality objectives. At a minimum, each treatment control BMP designed to primarily function as a centralized infiltration device must meet the restrictions below, unless it is demonstrated that a restriction is not necessary to protect groundwater quality. The Copermittees may collectively or individually develop alternative restrictions on the use of

treatment control BMPs which are designed to primarily function as centralized infiltration devices. Alternative restrictions developed by the Copermittees can partially or wholly replace the restrictions listed below. The restrictions are not intended to be applied to small infiltration systems dispersed throughout a development project.

(a) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;

(b) All dry weather flows containing significant pollutant loads must be diverted from infiltration devices and treated through other BMPs;

(c) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration treatment control BMPs are to be used;

(d) Infiltration treatment control BMPs must be adequately maintained so that they remove storm water pollutants to the MEP;

(e) The vertical distance from the base of any infiltration treatment control BMP to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;

(f) The soil through which infiltration is to occur must have physical and chemical characteristics (such as appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;

(g) Infiltration treatment control BMPs must not be used for areas of industrial or light industrial activity; areas subject to high vehicular traffic (25,000 or greater average daily traffic on main roadway or 15,000 or more average daily traffic on any intersecting roadway); automotive repair shops; car washes; fleet storage areas (bus, truck, etc.); nurseries; and other high threat to water quality land uses and activities as designated by each Copermittee unless first treated or filtered to remove pollutants prior to infiltration and a comprehensive site-specific evaluation has been conducted; and

(h) Infiltration treatment control BMPs must be located a minimum of 100 feet horizontally from any water supply wells.

(7) Where feasible, landscaping with native or low water species shall be preferred in areas that drain to the MS4 or to waters of the United States.

d. STANDARD STORM WATER MITIGATION PLANS (SSMPS) – APPROVAL PROCESS CRITERIA AND REQUIREMENTS FOR PRIORITY DEVELOPMENT PROJECTS

Within two years of adoption of this Order, the Copermittees must submit an updated model SSMP, to the Regional Board's Executive Officer for a 30 day public review and comment period. The Regional Board's Executive Officer has the discretion to determine the necessity of a public hearing. Within 180 days of determination that the Model SSMP is in compliance with this Permit's provisions, each Copermittee must update their own local SSMP, and amended ordinances consistent with the model SSMP, and shall submit both (local SSMP and amended ordinances) to the Regional Board. The model SSMP must meet the requirements of section F.1.d of this Order to (1) reduce Priority Development Project discharges of storm water pollutants from the MS4 to the MEP, and (2) prevent Priority Development Project runoff discharges from the MS4 from causing or contributing to a violation of water quality standards.[12]

(1) Definition of Priority Development Project (PDP):

Priority Development Projects are:

(a) All new Development Projects that fall under the project categories or locations listed in section F.1.d.(2), and

(b) Those redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site and the existing development and/or the redevelopment project falls under the project categories or locations listed in section F.1.d.(2). Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to SSMP requirements, the numeric sizing criteria discussed in section F.1.d.(6) applies only to the addition or replacement, and not to the entire development. Where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development, the numeric sizing criteria applies to

[12] Updated SSMP and hydromodification requirements must apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updated SSMP or hydromodification requirement commences. If lawful prior approval of a project exists, whereby application of an updated SSMP or hydromodification requirement to the project is illegal, the updated SSMP or hydromodification requirement need not apply to the project. Updated Development Planning requirements set forth in Sections F.1. (a) through (h) of this Order must apply to all projects or phases of projects, unless, at the time any updated Development Planning requirement commences, the projects or project phases meet any one of the following conditions: (i) the project or phase has begun grading or construction activities; or (ii) a Copermittee determines that lawful prior approval rights for a project or project phase exist, whereby application of the Updated Development Planning requirement to the project is legally infeasible. Where feasible, the Permittees must utilize the SSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SSMP and hydromodification requirements in their plans.

the entire development.

(c) One acre threshold: In addition to the Priority Development Project Categories identified in section F.1.d.(2), Priority Development Projects must also include all other pollutant-generating Development Projects that result in the disturbance of one acre or more of land within three years of adoption of this Order.[13] As an alternative to this one-acre threshold, the Copermittees may collectively identify a different threshold, provided the Copermittees' threshold is at least as inclusive of Development Projects as the one-acre threshold.

(2) Priority Development Project Categories

Where a new Development Project feature, such as a parking lot, falls into a Priority Development Project Category, the entire project footprint is subject to SSMP requirements.

(a) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site) including commercial, industrial, residential, mixed-use, and public projects. This category includes development projects on public or private land which fall under the planning and building authority of the Copermittees.

(b) Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

(c) Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet must meet all SSMP requirements except for structural treatment BMP and numeric sizing criteria requirement F.1.d.(6) and hydromodification requirement F.1.h.

(d) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty-five percent or greater.

(e) Environmentally Sensitive Areas (ESAs). All development located within or directly adjacent to or discharging directly to an ESA (where discharges

[13] Pollutant generating Development Projects are those projects that generate pollutants at levels greater than natural background levels.

from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10 percent or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

(f) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to runoff. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

(g) Street, roads, highways, and freeways. This category includes any paved surface that is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(h) Retail Gasoline Outlets (RGOs). This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) a projected Average Daily Traffic (ADT) of 100 or more vehicles per day.

(3) Pollutants of Concern

As part of its local SSMP, each Copermittee must implement an updated procedure for identifying pollutants of concern for each Priority Development Project. The procedure must address, at a minimum: (1) Receiving water quality (including pollutants for which receiving waters are listed as impaired under CWA section 303(d)); (2) Land-use type of the Development Project and pollutants associated with that land use type; and (3) Pollutants expected to be present on site.

(4) Low Impact Development BMP Requirements

Each Copermittee must require each Priority Development Project to implement LID BMPs which will collectively minimize directly connected impervious areas, limit loss of existing infiltration capacity, and protect areas that provide important water quality benefits necessary to maintain riparian and aquatic biota, and/or are particularly susceptible to erosion and sediment loss.

(a) The following LID BMPs must be implemented:

(i) Each Copermittee must require LID BMPs or make a finding of infeasibility for each Priority Development Project in accordance with the LID waiver program in Section F.1.d.(8);

(ii) Each Copermittee must incorporate formalized consideration, such as thorough checklists, ordinances, and/or other means, of LID BMPs into the plan review process for Priority Development Projects;

(iii) The review of each Priority Development Project must include an assessment of potential collection of storm water for on-site or off-site reuse opportunities;

(iv) The review of each Priority Development Project must include an assessment of techniques to infiltrate, filter, store, evaporate, or retain runoff close to the source of runoff; and

(v) Within 2 years after adoption of this Order, each Copermittee must review its local codes, policies, and ordinances and identify barriers therein to implementation of LID BMPs. Following the identification of these barriers to LID implementation, where feasible, the Copermittee must take, by the end of the permit cycle, appropriate actions to remove such barriers.

(b) The following LID BMPs must be implemented at all Priority Development Projects where technically feasible as required below:

(i) Maintain or restore natural storage reservoirs and drainage corridors (including depressions, areas of permeable soils, swales, and ephemeral and intermittent streams.

(ii) Projects with landscaped or other pervious areas must, where feasible, drain runoff from impervious areas (rooftops, parking lots, sidewalks, walkways, patios, etc) into pervious areas prior to discharge to the MS4. The amount of runoff from impervious areas that is to drain to pervious areas shall not exceed the total capacity of the project's pervious areas to infiltrate or treat runoff, taking into consideration the pervious areas' geologic and soil conditions, slope, and other pertinent factors.

(iii) Projects with landscaped or other pervious areas must, where feasible, properly design and construct the pervious areas to effectively receive and infiltrate or treat runoff from impervious areas, prior to discharge to the MS4. Soil compaction for these areas shall be minimized. The amount of the impervious areas that are to drain to pervious areas must be based upon the total size, soil conditions, slope, and other pertinent factors.

(iv) Projects with low traffic areas and appropriate soil conditions must construct walkways, trails, overflow parking lots, alleys, or other low-traffic areas with permeable surfaces, such as pervious concrete, porous asphalt, unit pavers, and granular materials.

(c) To protect ground water resources any infiltration LID BMPs must comply with Section F.1.(c)(6).

(d) LID BMPs sizing criteria:

(i) LID BMPs shall be sized and designed to ensure onsite retention without runoff, of the volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the County of Orange's 85th Percentile Precipitation Map[14] ("design capture volume");

(ii) If onsite retention LID BMPs are technically infeasible per section F.1.d.(7)(b), LID biofiltration BMPs may treat any volume that is not retained onsite by the LID BMPs. The LID biofiltration BMPs must be designed for an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP. Due to the flow through design of biofiltration BMPs, the total volume of the BMP, including pore spaces and prefilter detention volume, must be sized to hold at least 0.75 times the design storm volume that is not retained onsite by LID retention BMPs;

(iii) If it is shown to be technically infeasible to treat the remaining volume up to and including the design capture volume using LID BMPs (retention or biofiltration), the project must implement conventional treatment control BMPs in accordance with Section F.1.d.(6) below and must participate in the LID waiver program in Section F.1.d.(7).

(e) All LID BMPs shall be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors, such as mosquitoes, rodents, and flies.

(5) Source Control BMP Requirements

Each Copermittee must require each Priority Development Project to implement source control BMPs. The source control BMPs to be required must:

(a) Prevent illicit discharges into the MS4;
(b) Minimize storm water pollutants of concern in runoff;
(c) Eliminate irrigation runoff;
(d) Include storm drain system stenciling or signage;
(e) Include properly designed outdoor material storage areas;
(f) Include properly designed outdoor work areas;
(g) Include properly designed trash storage areas;
(h) Include water quality requirements applicable to individual priority project categories.

[14] The isopluvial map is available from the County of Orange. The map can also be found as Figure A-1 Exhibit 7.II in the Model WQMP (September 2003), page 5 of 57 at http://www.ocwatersheds.com/documents/2003_DAMP_Exhibit_7_II_Model_WQMP_Attachments.pdf

(6) Treatment Control BMP Requirements[15]

Each Copermittee must require each Priority Development Project to implement treatment control BMPs that meet the following requirements:

(a) All treatment control BMPs for a single Priority Development Project must collectively be sized to comply with the following numeric sizing criteria:

(i) Volume-based treatment control BMPs must be designed to mitigate (infiltrate, filter, or treat) the volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the County of Orange's 85th Percentile Precipitation Isopluvial Map[16]; or

(ii) Flow-based treatment control BMPs must be designed to mitigate (infiltrate, filter, or treat) either: a) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or b) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two.

(b) Treatment control BMPs for all Priority Development Projects must mitigate (treat through infiltration, settling, filtration or other unit processes) the required volume or flow of runoff from all developed portions of the project, including landscaped areas.

(c) All treatment control BMPs must be located so as to remove pollutants from runoff prior to its discharge to any waters of the U.S. Multiple Priority Development Projects may use shared treatment control BMPs as long as construction of any shared treatment control BMP is completed prior to the use or occupation of any Priority Development Project from which the treatment control BMP will receive runoff.

(d) All treatment control BMPs for Priority Development Projects must, at a minimum:

(i) Be ranked with high or medium pollutant removal efficiency for the project's most significant pollutants of concern, as the pollutant removal efficiencies are identified in the Copermittees' Model

[15] This section only applies to those PDPs not implementing LID capable of meeting the design storm criteria for the entire site and meeting technical infeasibility eligibility. Low-Impact Development (LID) and other site design BMPs that are correctly designed to effectively remove pollutants from runoff are considered treatment control BMPs.

[16] The isopluvial map is available from the County of Orange. The map can also be found as Figure A-1 Exhibit 7.II in the Model WQMP (September 2003), page 105 of 157 at http://www.ocwatersheds.com/StormWater/PDFs/2003_DAMP/2003_DAMP_Section_7_New_Development_Significant_Redevelopment.pdf.

SSMP. Treatment control BMPs with a low removal efficiency ranking must only be approved by a Copermittee when a feasibility analysis has been conducted which exhibits that implementation of treatment control BMPs with high or medium removal efficiency rankings are infeasible for a Priority Development Project or portion of a Priority Development Project.

(ii) Be correctly sized and designed so as to remove storm water pollutants to the MEP.

(e) Target removal of pollutants of concern from runoff.

(f) Be implemented close to pollutant sources, and prior to discharging into waters of the U.S.

(g) Not be constructed within a waters of the U.S. or waters of the State.

(h) Include proof of a mechanism under which ongoing long-term maintenance will be conducted to ensure proper maintenance for the life of the project. The mechanisms may be provided by the project proponent or Copermittee.

(i) Be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors, such as mosquitoes, rodents, and flies.

(7) Low Impact Development (LID) BMP Waiver Program

The Copermittees must develop, collectively or individually, a LID waiver program for incorporation into local SSMPs, which would allow a Priority Development Project to substitute implementation of all or a portion of required LID BMPs in section F.1.d(4) with implementation of treatment control BMPs and a mitigation project, payment into an in-lieu funding program, and/or watershed equivalent BMP(s) consistent with Section F.1.d.(11). The Copermittees shall submit the LID waiver program as part of their updated model SSMP. At a minimum, the program must meet the requirements below:

(a) Prior to implementation, the LID waiver program must clearly exhibit that it will not allow PDPs to result in a net impact (after consideration of any mitigation and in-lieu payments) from pollutant loadings over and above the impact caused by projects meeting LID requirements;

(b) For each PDP participating, a technical feasibility analysis must be included demonstrating that it is technically infeasible to implement LID BMPs that comply with the requirements of Section F.1.(d)(4). The

Copermittee(s) must develop criteria for the technical feasibility analysis including a cost benefit analysis, examination of LID BMPs considered and alternatives chosen. Each PDP participating must demonstrate that LID BMPs were implemented as much as feasible given the site's unique conditions. Analysis must be made of the pollutant loading for each project participating in the LID substitution program. The estimated impacts from not implementing the required LID BMPs in section F.1.d.(4) must be fully mitigated. Technical infeasibility may result from conditions including, but not limited to:

(i) Locations that cannot meet the infiltration and groundwater protection requirements in section F.1.c.(6). Where infiltration is technically infeasible, the project must still examine the feasibility of other onsite retention LID BMPs;
(ii) Smart growth and infill or redevelopment locations where the density and/or nature of the project would create significant difficulty for compliance with the onsite volume retention requirements; and
(iii) Other site, geologic, soil or implementation constraints identified in the Copermittees updated local SSMP document.

(c) The LID waiver program must include mechanisms to verify that each Priority Development Project participating in the program is in compliance with all applicable SSMP requirements;

(d) The LID waiver program must develop and implement a review process verifying that the BMPs to be implemented meet the designated design criteria. The review process must also verify that each Priority Development Project participating in the program is in compliance with all applicable SSMP requirements.

(e) The LID waiver program must include performance standards for treatment control BMPs specified in compliance with section F.1.(d)(6).

(f) Each PDP that participates in the LID waiver program must mitigate for the pollutant loads expected to be discharged due to not implementing the LID BMPs in section F.1.d.(4). Mitigation projects must be implemented within the same hydrologic subarea as the PDP. Mitigation projects outside of the hydrologic subarea but within the same hydrologic unit may be approved provided that the project proponent demonstrates that mitigation projects within the same hydrologic subarea are infeasible and that the mitigation project will address similar beneficial use impacts as expected from the PDPs pollutant load types and amount. Offsite mitigation projects may include green streets projects, existing development retrofit projects, retrofit incentive programs, regional BMPs and stream restoration. Project applicants seeking to utilize these

alternative compliance provisions may propose other offsite mitigation projects, which the Copermittees may approve if they meet the requirements of this subpart.

(g) A Copermittee may choose to implement a pollutant credit system as part of the LID waiver program provided that such a credit system clearly exhibits that it will not allow PDPs to result in a net impact from pollutant loadings over and above the impact caused by projects meeting LID requirements. Any credit system that a Copermittee chooses to implement must be submitted to the Executive Officer for review and approval as part of the waiver program.

(h) The LID waiver program shall include a storm water mitigation fund developed by the Copermittee(s) to be used for water quality improvement projects which may serve in lieu of the PDP's required mitigation in section F.1.d.(8)(e). The LID waiver program's storm water mitigation fund shall, at a minimum, identify;

(i) The entity or entities that will manage the storm water mitigation fund (i.e., assume full responsibility);
(ii) The range and types of acceptable projects for which storm water mitigation funds may be expended;
(iii) The entity or entities that will assume full responsibility for each water quality improvement project, including its successful completion; and
(iv) How the dollar amount of storm water mitigation fund contributions will be determined. In-lieu payments must be proportional to the additional pollutant load discharged by not fully implementing LID.

(i) Each Copermittee must notify the Regional Board in their annual report of each PDP choosing to participate in the LID waiver program. The annual report must include the following information:

(i) Name of the developer of the participating PDP;
(ii) Site location;
(iii) Reason for LID waiver including technical feasibility analysis;
(iv) Description of BMPs implemented;
(v) Total amount deposited, if any, into the storm water mitigation fund described in section F.1.d.(8)(f);
(vi) Water quality improvement project(s) proposed to be funded; and
(vii) Timeframe for implementation of water quality improvement projects.

(8) <u>Site Design and Treatment Control BMP Design Standards</u>

As part of its local SSMP, each Copermittee must develop and require Priority

Development Projects to implement sitting, design, and maintenance criteria for each site design and treatment control BMP listed in its local SSMP to determine feasibility and applicability and so that implemented site design and treatment control BMPs are constructed correctly and are effective at pollutant removal, runoff control, and vector minimization. LID techniques, such as soil amendments, must be incorporated into the criteria for appropriate treatment control BMPs. Development of BMP design worksheets which can be used by project proponents is encouraged.

(9) Implementation Process

As part of its local SSMP, each Copermittee must implement a process to verify compliance with SSMP requirements. The process must identify at what point in the planning process Priority Development Projects will be required to meet SSMP requirements and at a minimum, the Priority Development Project must implement the required post-construction BMPs prior to occupancy and/or the intended use of any portion of that project. The process must also include identification of the roles and responsibilities of various municipal departments in implementing the SSMP requirements, as well as any other measures necessary for the implementation of SSMP requirements.

(10) Treatment BMP Review

(a) The Copermittees must review and update the BMPs that are listed in their local SSMPs as options for treatment control during the third year of implementation of this Order. At a minimum, the update must include removal of obsolete or ineffective BMPs and addition of LID BMPs that can be used for treatment, such as bioretention cells, bioretention swales, etc. The update must also add appropriate LID BMPs to any tables or discussions in the local SSMPs addressing pollutant removal efficiencies of treatment control BMPs. In addition, the update must include review and revision where necessary of treatment control BMP pollutant removal efficiencies.

(b) The update must incorporate findings from BMP effectiveness studies conducted by the Copermittees for projects funded wholly or in part by the State Board or Regional Board.

(c) Each Copermittee must implement a mechanism for annually incorporating findings from local treatment BMP effectiveness studies (e.g., ones conducted by, or on-behalf of, public agencies in Orange County) into SSMP project reviews and permitting

(11) Where a development project, greater than 100 acres in total project size or smaller than 100 acres in size yet part of a larger common plan of

development that is over 100 acres, has been prepared using watershed and/or sub-watershed based water quality, hydrologic, and fluvial geomorphologic planning principles that implement regional LID BMPs in accordance with the sizing and location criteria of this Order and acceptable to the Regional Board, such standards shall govern review of projects with respect to Section F.1 of this Order and shall be deemed to satisfy this Order's requirements for LID site design, buffer zone, infiltration and groundwater protection standards, source control, treatment control, and hydromodification control standards. Regional BMPs must clearly exhibit that they will not result in a net impact from pollutant loadings over and above the impact caused by capture and retention of the design storm. Regional BMPs may be used provided that the BMPs capture and retain the volume of runoff produced from the 24-hour 85th percentile storm event as defined in section F.1.d.(6)(a)(i) and that such controls are located upstream of receiving waters. Any volume that is not retained by the LID BMPs, up to the design capture volume, must be treated using LID biofiltration. Where regional LID implementation has been shown to be technically infeasible (per section F.1.d.7.b) any volume up to and including the design capture volume, not retained by LID BMPs, nor treated by LID biofiltration, must be treated using conventional treatment control BMPs in accordance with Section F.1.d.(6) and participation in the LID waiver program in Section F.1.d.(7).

e. BMP CONSTRUCTION VERIFICATION

Prior to occupancy and/or intended use of any portion of the Priority Development Project subject to SSMP requirements, each Copermittee must inspect the constructed site design, source control, and treatment control BMPs to verify that they have been constructed and are operating in compliance with all specifications, plans, permits, ordinances, and this Order.

f. BMP MAINTENANCE TRACKING

(1) Each Copermittee must develop and maintain a watershed-based database to track and inventory all approved post-construction BMPs and BMP maintenance within its jurisdiction since July 2001. LID BMPs implemented on a lot by lot basis at a single family residential home, such as rainbarrels, are not required to be tracked or inventoried. At a minimum, the database must include information on BMP type, location, watershed, date of construction, party responsible for maintenance, maintenance certifications or verifications, inspections, inspection findings, and corrective actions, including whether the site was referred to the Vector Control District.

(2) Each Copermittee must establish a mechanism not only to track post-construction BMPs, but also to ensure that appropriate easements and ownerships are properly recorded in public records and the information is

conveyed to all appropriate parties when there is a change in project or site ownership.

(3) Each Copermittee must verify that approved post-construction BMPs are operating effectively and have been adequately maintained by implementing the following measures:

(a) An annual inventory of all approved BMPs within the Copermittee's jurisdiction. LID BMPs implemented on a lot by lot basis at a single family residential home, such as rainbarrels, are not required to be tracked or inventoried. The inventory must also include all BMPs approved for Priority Development Projects since July 2001;

(b) The designation of high priority BMPs. High-priority designation must include consideration of BMP size, recommended maintenance frequency, likelihood of operational and maintenance issues, location, receiving water quality, and other pertinent factors;

(c) Verify implementation, operation, and maintenance of BMPs by inspection, self-certification, surveys, or other equally effective approaches with the following conditions:

(i) The implementation, operation, and maintenance of at least 90 percent of approved and inventoried final project public and private SSMPs (a.k.a. WQMPs) must be verified annually. All post-construction BMPs shall be verified within every four year period;
(ii) Operation and maintenance verifications must be required prior to each rainy season;
(iii) All (100 percent) projects with BMPs that are high priority must be inspected by the Copermittee annually prior to each rainy season;
(iv) All (100 percent) public agency projects with BMPs must be inspected by the Copermittee annually;
(v) At least 50 percent of projects with drainage insert treatment control BMPs must be inspected by the Copermittee annually;
(vi) Appropriate follow-up measures (including re-inspections, enforcement, maintenance, etc.) must be conducted to ensure the treatment BMPs continue to reduce storm water pollutants as originally designed;
(vii) All inspections must verify effective operation and maintenance of the treatment control BMPs, as well as compliance with all ordinances, permits, and this Order; and

(viii) Inspections must note observations of vector conditions, such as mosquitoes. Where conditions are identified as contributing to mosquito production, the Copermittee must notify the Orange County Vector Control District.

g. ENFORCEMENT OF DEVELOPMENT SITES

Each Copermittee must enforce its storm water ordinance for all Development Projects and at all development sites as necessary to maintain compliance with this Order. Copermittee ordinances or other regulatory mechanisms must include appropriate sanctions to achieve compliance. Sanctions must include the following or their equivalent: Non-monetary penalties, fines, bonding requirements, and/or permit or occupancy denials for non-compliance.

h. HYDROMODIFICATION – LIMITATIONS ON INCREASES OF RUNOFF DISCHARGE RATES AND DURATIONS[17]

Each Copermittee shall collaborate with the other Copermittees to develop and implement a Hydromodification Management Plan (HMP) to manage increases in runoff discharge rates and durations from all Priority Development Projects. The HMP shall be incorporated into the local SSMP and implemented by each Copermittee so that estimated post-project runoff discharge rates and durations shall not exceed pre-development discharge rates and durations. Where the proposed project is located on an already developed site, the pre-project discharge rate and duration shall be that of the pre-developed, naturally occurring condition. The HMP shall be submitted to the Executive Officer within 2 years of permit adoption. The HMP will be made available for public review and comment and the Executive Officer will determine the need for a public hearing.

(1) The HMP must:

(a) Identify a method for assessing susceptibility of channel segments which receive runoff discharges from Priority Development Projects. The geomorphic stability within the channel shall be assessed. A performance standard shall be created that ensures that the geomorphic stability within the channel not be compromised as a result of receiving runoff discharges from Priority Development Projects.

(b) Utilize continuous simulation of the entire rainfall record (or other analytical method proposed by the Copermittees and deemed acceptable

[17] Updated SSMP and hydromodification requirements shall apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updates SSMP or hydromodification requirement commences. If a Copermittee determines that lawful prior approval of a project exists, whereby application of an updated SSMP or hydromodification requirement to the project is legally infeasible, the updated SSMP or hydromodification requirement need not apply to the project. The Copermittees shall utilize the SSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SSMP and hydromodification requirements in their plans.

by the Regional Board) to identify a range of runoff flows[18] for which priority Development Project post-project runoff flow rates and durations shall not exceed pre-development (naturally occurring) runoff flow rates and durations by more than 10 percent, where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses. In addition, the identified range of runoff flow rates and durations must compensate for the loss of sediment supply due to the development. The lower boundary of the range of runoff flows identified shall correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks. The identified range of runoff flows may be different for specific watersheds, channels, or channel reaches. In the case of an artificially hardened (concrete lined, rip rap, etc.) channel, the lower boundary of the range of runoff flows identified shall correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks of a comparable soft-bottomed channel.

(c) Require Priority Development Projects to implement hydrologic control measures so that Priority Development Projects' post-project runoff flow rates and durations (1) do not exceed pre-project (naturally occurring) runoff flow rates and durations by more than 10 percent for the range of runoff flows identified under section F.1.h.(1)(b), where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses; (2) do not result in channel conditions which do not meet the channel standard developed under section F.1.h.(1)(a) for channel segments downstream of Priority Development Project discharge points; and (3) compensate for the loss of sediment supply due to development.

(d) Include other performance criteria (numeric or otherwise) for Priority Development Projects as necessary to prevent runoff from the projects from increasing and/or continuing unnatural rates of erosion of channel beds and banks, silt pollutants generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

(e) Include a review of pertinent literature.

(f) Identify areas within the San Juan Hydrologic Unit where historic hydromodification has resulted in a negative impact to benthic macroinvertebrate and benthic periphyton by identifying areas with low or very low Index of Biotic Integrity (IBI) scores.

[18] The identified range of runoff flows to be controlled should be expressed in terms of peak flow rates of rainfall events, such as "10% of the pre-development 2-year runoff event up to the pre-project 10-year runoff event."

(g) Include a protocol to evaluate potential hydrograph change impacts to downstream watercourses from Priority Development Projects. This protocol must include the use of the IBI score as a metric for assessing impacts and improvements to downstream watercourses.

(h) Include a description of how the Copermittees will incorporate the HMP requirements into their local approval processes.

(i) Include criteria on selection and design of management practices and measures (such as detention, retention, and infiltration) to control flow rates and durations and address potential hydromodification impacts.

(j) Include technical information supporting any standards and criteria proposed.

(k) Include a description of inspections and maintenance to be conducted for management practices and measures to control flow rates and durations and address potential hydromodification impacts.

(l) Include a description of pre- and post-project monitoring and other program evaluation, including IBI score, to be conducted to assess the effectiveness of implementation of the HMP.

(m) Include mechanisms for assessing and addressing cumulative impacts within a watershed on channel morphology.

(n) Include information on evaluation of channel form and condition, including slope, discharge, vegetation, underlying geology, and other information, as appropriate.

(2) In addition to the hydrologic control measures that must be implemented per section F.1.h.(1)(c), the HMP must include a suite of management measures to be used on Priority Development Projects to protect and restore downstream beneficial uses and prevent or further prevent adverse physical changes to downstream channels. The measures must be based on a prioritized consideration of the following elements in this order:

(a) Hydrologic control measures;
(b) On-site management controls;
(c) Regional controls located upstream of receiving waters; and
(d) In-stream controls.

Where stream channels are adjacent to, or are to be modified as part of a Priority Development Project, management measures must include buffer zones and setbacks. Under no circumstances will in-stream controls include the use of non-naturally occurring hardscape materials such as concrete,

riprap, gabions, etc. The suite of management measures shall also include stream restoration as a viable option to achieve the channel standard in section F.1.h.(1)(a).

(3) Each individual Copermittee has the discretion to not require Section F.1.h. at Priority Development Projects where the project:

(a) Discharges storm water runoff into underground storm drains discharging directly to bays or the ocean; or
(b) Discharges storm water runoff into conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to ocean waters, enclosed bays, estuaries, or water storage reservoirs and lakes.

(4) HMP Reporting and Implementation

(a) Within 2 years of adoption of the Order, the Copermittees shall submit to the Regional Board a draft HMP that has been reviewed by the public, including the analysis that identifies the appropriate limiting range of flow rates per section F.1.h.(1)(b).

(b) Within 180 days of receiving Regional Board comments on the draft HMP, the Copermittees shall submit a final HMP that addressed the Regional Board's comments.

(c) Within 90 days of receiving a finding of adequacy from the Executive Officer, each Copermittee shall incorporate and implement the HMP for all Priority Development Projects.

(d) Prior to approval of the HMP by the Regional Board, the early implementation measures likely to be included in the HMP shall be encouraged by the Copermittees.

(5) <u>Interim Hydromodification Criteria</u>

Within one year of adoption of this Order, each Copermittee must ensure that all Priority Development Projects are implementing the following criteria by comparing the pre-development (naturally occurring) and post-project flow rates and durations using a continuous simulation hydrologic model such as US EPA's Hydrograph Simulation Program-Fortran (HSPF):

(a) For flow rates from 10 percent of the 2-year storm event to the 5 year storm event, the post-project peak flows shall not exceed pre-development (naturally occurring) peak flows.

(b) For flow rates from the 5 year storm event to the 10 year storm event the post-project peak flows may exceed pre-development (naturally

occurring) flows by up to 10 percent for a 1-year frequency interval.

The interim hydromodification criteria do not apply to Priority Development Projects where the project discharges (1) storm water runoff into underground storm drains discharging directly to bays or the ocean, or (2) storm water runoff into conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to ocean waters, enclosed bays, estuaries, or water storage reservoirs and lakes.

Within one year of adoption of this Order, each Copermittee must submit a signed, certification statement to the Regional Board verifying implementation of the interim hydromodification criteria.

(6) No part of section F.1.h shall alleviate the Copermittees responsibilities for implementing Low Impact Development BMPs as required under section F.1.d.(4).

i. TRAINING AND EDUCATION

(1) Municipal Departments and Personnel Education

Municipal Development Planning: Each Copermittee must implement an education program so that its planning and development review staffs and contractors (and Planning Boards and Elected Officials, if applicable) have an understanding of:

(a) Federal, State, and local water quality laws and regulations applicable to Development Projects;

(b) The connection between land use decisions and short and long-term water quality impacts (i.e., impacts from land development and urbanization); and

(c) Methods of minimizing impacts to receiving water quality resulting from development, including:

(i) Storm water management plan development and review;
(ii) Local sensitive water bodies, including 303(d)-impairments and ESAs;
(iii) Methods to control downstream erosion impacts;
(iv) Identification of pollutants of concern;
(v) Site design BMP techniques;
(vi) Source control BMPs;
(vii) Selection of the most effective treatment control BMPs for the pollutants of concern; and
(viii) Public heath concerns related to storm water management infrastructure.

(2) Project Applicants, Developers, Contractors, Property Owners, and other Responsible Parties

(a) Each Copermittee must implement a New Development / Redevelopment education program using all media as appropriate to:

(i) Measurably increase the knowledge of the target communities regarding MS4s, impacts of runoff on receiving waters, and potential BMP solutions for the target audience; and
(ii) To measurably change the behavior of target communities and thereby reduce pollutant releases to MS4s and the environment.

(b) Each Copermittee must educate each target community on the following topics where appropriate:

(i) The importance of educating all construction workers in the field about storm water issues and BMPs though formal or informal training;
(ii) Federal, State, and local water quality laws and regulations applicable to new development and redevelopment activities;
(iii) Site design, source control, pollution prevention, and treatment BMPs;
(iv) General runoff concepts; and
(v) Other topics of local importance, including local water quality conditions, impaired waterbodies and environmentally sensitive areas.

2. CONSTRUCTION COMPONENT

Each Copermittee must implement a construction program which meets the requirements of this section, prevents illicit discharges into the MS4, implements and maintains structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4, reduces construction site discharges of storm water pollutants from the MS4 to the MEP, and prevents construction site discharges from the MS4 from causing or contributing to a violation of water quality standards.

a. ORDINANCE UPDATE

Within 365 days of adoption of this Order, each Copermittee must review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures.

b. SOURCE IDENTIFICATION

Each Copermittee must maintain an updated watershed based inventory of all construction sites within its jurisdiction. The use of an automated database system, such as Geographical Information Systems (GIS) is required.

c. SITE PLANNING AND PROJECT APPROVAL PROCESS

Each Copermittee must incorporate consideration of potential water quality impacts prior to approval and issuance of construction and grading permits.

(1) Each construction and grading permit must require proposed construction sites to implement designated BMPs and other measures so that illicit discharges into the MS4 are prevented and storm water pollutants discharged from the site will be reduced to the maximum extent practicable and will not cause or contribute to a violation of water quality standards.

(2) Prior to permit issuance, the project proponent's runoff management plan (or equivalent construction BMP plan) must be required to comply, and reviewed to verify compliance, with the local grading ordinance, other applicable local ordinances, and this Order.

(3) Prior to permit issuance, each Copermittee must verify that project proponents subject to California's statewide General NPDES Permit for Storm Water Discharges Associated With Construction Activities, (hereinafter General Construction Permit), have existing coverage under the General Construction Permit.

d. BMP IMPLEMENTATION

(1) Designate BMPs: Each Copermittee must designate a minimum set of BMPs and other measures to be implemented at all construction sites. The designated minimum set of BMPs must include:

(a) Management Measures:

(i) Pollution prevention, where appropriate;
(ii) Development and implementation of a site-specific runoff management plan;
(iii) Minimization of areas that are cleared and graded to only the portion of the site that is necessary for construction;
(iv) Minimization of exposure time of disturbed soil areas;
(v) Minimization of grading during the wet season and correlation of grading with seasonal dry weather periods to the extent feasible;
(vi) Limitation of grading to a maximum disturbed area as determined by each Copermittee before either temporary or permanent erosion controls are implemented to prevent storm water pollution. The Copermittee has the option of temporarily increasing the size of

disturbed soil areas by a set amount beyond the maximum, if the individual site is in compliance with applicable storm water regulations and the site has adequate control practices implemented to prevent storm water pollution;

(vii) Temporary stabilization and reseeding of disturbed soil areas as rapidly as feasible;

(viii) Wind erosion controls;

(ix) Tracking controls;

(x) Non-stormwater management measures to prevent illicit discharges and control storm water pollution sources;

(xi) Waste management measures;

(xii) Preservation of natural hydrologic features where feasible;

(xiii) Preservation of riparian buffers and corridors where feasible;

(xiv) Evaluation and maintenance of all BMPs, until removed; and

(xv) Retention, reduction, and proper management of all storm water pollutant discharges on site to the MEP standard.

(b) Erosion and Sediment Controls:

(i) Erosion prevention. Erosion prevention is to be used as the most important measure for keeping sediment on site during construction;

(ii) Sediment controls. Sediment controls are to be used as a supplement to erosion prevention for keeping sediment on-site during construction;

(iii) Slope stabilization must be used on all active slopes during rain events regardless of the season and on all inactive slopes during the rainy season and during rain events in the dry season; and

(iv) Permanent revegetation or landscaping as early as feasible.

(c) Designate enhanced BMPs[19] for 303(d) impairments and ESAs: Each Copermittee must implement, or require implementation of, enhanced measures to address the exceptional threat to water quality posed by all construction sites tributary to CWA section 303(d) water body segments impaired for sediment or turbidity. Each Copermittee must also implement, or require implementation of, enhanced, site-specific measures for construction sites within or adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).

(i) Active Sediment Treatment (AST): Each Copermittee must require implementation of advanced treatment for sediment at construction

[19] Enhanced BMPs are control actions specifically targeted to the pollutant or condition of concern and of higher quality and effectiveness than the minimum control measures otherwise required. Enhanced in this Order means better, not simply more, BMPs.

sites (or portions thereof) that are determined by the Copermittee to be an exceptional threat to water quality. In evaluating the threat to water quality, the following factors must be considered by the Copermittee:

[a] Soil erosion potential or soil type;
[b] The site's slopes;
[c] Project size and type;
[d] Sensitivity of receiving water bodies;
[e] Proximity to receiving water bodies;
[f] Non-storm water discharges;
[g] Ineffectiveness of other BMPs;
[h] Proximity and sensitivity of aquatic threatened and endangered species of concern;
[i] Known effects of AST chemicals; and
[j] Any other relevant factors.

(d) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order at each construction site within its jurisdiction year round. BMP implementation requirements, however, can vary based on wet and dry seasons. Dry season BMP implementation must plan for and address unseasonal rain events that may occur during the dry season (May 1 through September 30).

e. INSPECTION OF CONSTRUCTION SITES

Each Copermittee must conduct construction site inspections for compliance with its ordinances (grading, storm water, etc.), permits (construction, grading, etc.), and this Order. Priorities for inspecting sites must consider the nature and size of the construction activity, topography, and the characteristics of soils and receiving water quality.

(1) During the wet season, each Copermittee must inspect at least biweekly (every two weeks), all construction sites within its jurisdiction meeting any of the following criteria:

(a) All sites 30 acres or more in size with rough grading or active slopes occurring during the wet season;

(b) All sites one acre or more, and tributary to a CWA section 303(d) water body segment impaired for sediment or within or directly adjacent to, or discharging directly to, the ocean or a receiving water within an ESA; and

(c) Other sites determined by the Copermittees or the Regional Board as a significant threat to water quality. In evaluating threat to water quality, the following factors must be considered: (1) soil erosion potential; (2) site

slope; (3) project size and type; (4) sensitivity of receiving water bodies; (5) proximity to receiving water bodies; (6) non-storm water discharges; (7) past record of non-compliance by the operators of the construction site; and (8) any other relevant factors.

(2) During the wet season, each Copermittee must inspect at least monthly, all construction sites with one acre or more of soil disturbance not meeting the criteria specified above in section F.2.e.(1).

(3) During the wet season, each Copermittee must inspect construction sites less than one acre in size as needed to ensure compliance with its ordinances and this Order.

(4) Each Copermittee must inspect all construction sites as needed during the dry season. Sites meeting the criteria in section F.2.e.(1) must be inspected at least once in August or September each year.

(5) Re-inspections: Based upon site inspection findings, each Copermittee must implement all follow-up actions (i.e., re-inspection, enforcement) necessary to comply with this Order. Reinspection frequencies must be determined by each Copermittee based upon the severity of deficiencies, the nature of the construction activity, and the characteristics of soils and receiving water quality.

(6) Inspections of construction sites must include, but not be limited to:

(a) Check for coverage under the General Construction Permit (Notice of Intent (NOI) and/or Waste Discharge Identification No.) during initial inspections;
(b) Assessment of compliance with Copermittee ordinances and permits related to runoff, including the implementation and maintenance of designated minimum BMPs;
(c) Assessment of BMP effectiveness;
(d) Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff;
(e) Education and outreach on storm water pollution prevention, as needed; and
(f) Creation of a written or electronic inspection report.

(7) The Copermittees must track the number of inspections for each inventoried construction site throughout the reporting period to verify that each site is inspected at the minimum frequencies required.

f. ENFORCEMENT OF CONSTRUCTION SITES

(1) Each Copermittee must develop and implement an escalating enforcement

process that achieves prompt corrective actions at construction sites for violations of the Copermittee's water quality protection permit requirements and ordinances. This enforcement process must include authorizing the Copermittee's construction site inspectors to take immediate enforcement actions when appropriate and necessary. The enforcement process must include appropriate sanctions such as stop work orders, non-monetary penalties, fines, bonding requirements, and/or permit denials for non-compliance.

(2) Each Copermittee must be able to respond to complaints received from third-parties and to ensure the Regional Board that corrective actions have been implemented.

g. REPORTING OF NON-COMPLIANT SITES

(1) In addition to the notification requirements in Attachment B, each Copermittee must notify the Regional Board when the Copermittee issues a stop work order or other high level enforcement to a construction site in its jurisdiction as a result of storm water violations.

(2) Each Copermittee shall annually notify the Regional Board, prior to the commencement of the wet season, of all construction sites with alleged violations. Information may be provided as part of the JRMP annual report if submitted prior to the rainy season. Information provided shall include, but not be limited to, the following:

(a) WDID number if enrolled under the General Construction Permit
(b) Site Location, including address
(c) Current violations or suspected violations

h. TRAINING AND EDUCATION

(1) Municipal Staff and Contractors: Requirements for municipal staff and contractors are described in the Municipal Component section of this Order.

(2) Construction Site Owner / Operator Responsibilities:

As early in the planning and development process as possible and all through the permitting and construction process, each Copermittee must implement a program to educate project applicants, developers, contractors, property owners, and other responsible parties. The education program must provide an understanding of the topics listed below, as appropriate for the audience being educated.

(a) The importance of educating all construction workers in the field about storm water issues and BMPs though formal or informal training;

(b) Federal, State, and local water quality laws and regulations applicable to construction and grading activities;
(c) Site design, source control, pollution prevention, and treatment BMPs;
(d) General runoff concepts; and
(e) Other topics of local importance, including local water quality conditions, impaired waterbodies and environmentally sensitive areas.

3. EXISTING DEVELOPMENT COMPONENT

a. MUNICIPAL

Each Copermittee must implement a municipal program which meets the requirements of this section, prevents illicit discharges into the MS4, reduces municipal discharges of storm water pollutants from the MS4 to the MEP, and prevents municipal discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification / Inventory

Each Copermittee must maintain an updated watershed-based inventory of municipal areas and activities. The inventory must include the name, address (if applicable), and a description of the area/activity; which pollutants are potentially generated by the area/activity; whether the area/activity is adjacent to an ESA; and identification of whether the area/activity is tributary to a CWA section 303(d) water body segment and generates pollutants for which the water body segment is impaired. The use of an automated database system, such as Geographical Information Systems (GIS) is required when applicable.

(2) General BMP Implementation

(a) Pollution Prevention: Each Copermittee must implement pollution prevention methods in its municipal program and must require their use by appropriate municipal departments, personnel, and contractors, where appropriate.

(b) Designate Minimum BMPs: Each Copermittee must designate a minimum set of BMPs for all municipal areas and activities. The designated minimum BMPs for municipal areas and activities must be area or activity specific as appropriate. BMPs must be designated for special events that are expected to generate significant trash and litter.

(c) Designate BMPs for ESAs and 303(d) Impairments: Each Copermittee must designate enhanced measures for municipal areas and activities tributary to CWA section 303(d) impaired water body segments when an area or activity generates pollutants for which the water body segment is

impaired. Each Copermittee must also designate additional controls for municipal areas and activities within or directly adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).

(d) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum and enhanced BMPs and any additional measures necessary based on its inventory to comply with this Order for each municipal area or activity within its jurisdiction.

(3) BMP Implementation for Management of Pesticides, Herbicides, and Fertilizers

Each Copermittee must implement BMPs to reduce the contribution of storm water pollutants associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from municipal areas and activities to MS4s and receiving waters. Such BMPs must include, at a minimum:

(a) Educational activities, permits, certifications and other measures for municipal applicators and distributors;
(b) Integrated Pest Management (IPM) measures that rely on non-chemical solutions;
(c) The use of native vegetation;
(d) Schedules for irrigation and chemical application; and
(e) The collection and proper disposal of unused pesticides, herbicides, and fertilizers.

(4) BMP implementation for Flood Control Structures

(a) Each Copermittee must implement procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies.
(b) Each Copermittee must include water quality protection measures, where feasible, when retrofitting existing flood control structural devices.
(c) Each Copermittee must evaluate its existing flood control devices, identify devices causing or contributing to a condition of pollution, identify measures to reduce or eliminate the structure's effect on pollution, and evaluate the feasibility of retrofitting the structural flood control device. The inventory and evaluation must be completed by and submitted to the Regional Board in the 2nd year JRMP Annual Report.

(5) BMP Implementation for Sweeping of Municipal Areas

Where municipal area sweeping is implemented as an MS4 BMP for municipal roads, streets, highways, and parking facilities, each Copermittee must design and implement the program based on the following criteria:

(a) Optimize pickup of trash and debris based on land uses, trash collection schedules, seasonal factors (e.g., special events, tourism, etc.) and inspections of municipal areas/activities.

(6) Operation and Maintenance of Municipal Separate Storm Sewer System (MS4) and Structural Controls

(a) Treatment Controls: Each Copermittee must implement a schedule of inspection and maintenance activities to verify proper operation of all municipal structural treatment controls designed to reduce storm water pollutant discharges to or from its MS4s and related drainage structures.

(b) MS4 and Facilities: Each Copermittee must implement a schedule of maintenance activities for the MS4 and MS4 facilities (catch basins, storm drain inlets, open channels, etc). The maintenance activities must, at a minimum, include:

(i) Inspection and removal of accumulated waste at least once a year between May 1 and September 30 of each year for all MS4 facilities;
(ii) Additional cleaning as necessary between October 1 and April 30 of each year for facilities that receive or collect high volumes of trash and debris;
(iii) Following two years of inspections, any MS4 facility that requires inspection and cleaning less than annually may be inspected as needed, but not less that every other year;
(iv) Open channels must be cleaned of observed anthropogenic litter in a timely manner;
(v) Record keeping of the maintenance and cleaning activities including the overall quantity of waste removed;
(vi) Proper disposal of waste removed pursuant to applicable laws; and
(vii) Measures to eliminate waste discharges during MS4 maintenance and cleaning activities.

(7) Infiltration From Sanitary Sewer to MS4/Provide Preventive Maintenance of Both

(a) Each Copermittee must implement controls and measures to prevent and eliminate infiltration of seepage from municipal sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4. Each Copermittee that operates both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate infiltration of seepage from the municipal sanitary sewers to the MS4s that must include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both.

(b) Each Copermittee must implement controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary. Such controls must include:

(i) Adequate plan checking for construction and new development,
(ii) Incident response training for municipal employees that identify sanitary sewer spills;
(iii) Code enforcement inspections;
(iv) MS4 maintenance and inspections;
(v) Interagency coordination with sewer agencies; and
(vi) Proper education of municipal staff and contractors conducting field operations on the MS4 or municipal sanitary sewer (if applicable).

(8) Inspection of Municipal Areas and Activities

(a) At a minimum, each Copermittee must inspect the following high priority municipal areas and activities annually:

(i) Roads, Streets, Highways, and Parking Facilities;
(ii) Flood Management Projects and Flood Control Devices;
(iii) Areas and activities tributary to a CWA section 303(d) impaired water body segment, where an area or activity generates pollutants for which the water body segment is impaired.
(iv) Areas and activities within or adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order);
(v) Municipal Facilities:
[a] Active or closed municipal landfills;
[b] Publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewage collection systems;
[c] Solid waste transfer facilities;
[d] Land application sites;
[e] Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles; and
[f] Household hazardous waste collection facilities.
(vi) Municipal airfields;
(vii) Parks and recreation facilities;
(viii) Special event venues following special events (festivals, sporting events, etc.);
(ix) Power washing; and
(x) Other municipal areas and activities that the Copermittee determines may contribute a significant pollutant load to the MS4.

(b) Other municipal areas and activities must be inspected as needed and in response to water quality data, valid public complaints, and findings from

municipal or contract staff.

(c) Based upon site inspection findings, each Copermittee must implement all follow-up actions necessary to comply with this Order.

(9) Enforcement of Municipal Areas and Activities

Each Copermittee must enforce its storm water ordinance for all municipal areas and activities as necessary to maintain compliance with this Order.

(10) Training and Education

Each Copermittee must ensure that all municipal personnel and contractors that have responsibilities for selecting, implementing, and evaluating BMPs for municipal areas and activities are adequately trained and educated to perform such tasks.

(a) Municipal Departments and Personnel Education

(i) Municipal Construction Activities: Each Copermittee must implement an education program that includes annual training prior to the rainy season so that its construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff have, at a minimum, an understanding of the following topics, as appropriate for the target audience:

[a] Federal, State, and local water quality laws and regulations applicable to construction and grading activities;
[b] The connection between construction activities and water quality impacts (i.e., impacts from land development and urbanization and impacts from construction material such as sediment);
[c] Proper implementation of erosion and sediment control and other BMPs to minimize the impacts to receiving water quality resulting from construction activities;
[d] The Copermittee's inspection, plan review, and enforcement policies and procedures to verify consistent application;
[e] Current advancements in BMP technologies;
[f] SSMP Requirements including treatment options, site design, source control, and applicable tracking mechanisms; and
[g] Other topics of local importance, including local water quality conditions, impaired water bodies, environmentally sensitive areas, and public health and disease vector issues associated with runoff.

(ii) Municipal Industrial/Commercial Activities: Each Copermittee must train staff responsible for conducting storm water compliance inspections and enforcement of industrial and commercial facilities at

least once a year. Training must cover inspection and enforcement procedures, BMP implementation, and review of monitoring data

(iii) Municipal Other Activities: Each Copermittee must implement an education program so that municipal personnel and contractors performing activities which generate pollutants have an understanding of the activity specific BMPs for each activity to be performed.

b. COMMERCIAL / INDUSTRIAL

Each Copermittee must implement a commercial / industrial program that meets the requirements of this section, prevents illicit discharges into the MS4, reduces commercial / industrial discharges of storm water pollutants from the MS4 to the MEP, and prevents commercial / industrial discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification

(a) Each Copermittee must maintain an updated watershed-based inventory of all industrial and commercial sites/sources within its jurisdiction (regardless of ownership) that could contribute a significant pollutant load to the MS4. The inventory must include the following minimum information for each industrial and commercial site/source: name; address; pollutants potentially generated by the site/source; and identification of whether the site/source is tributary to a Clean Water Act section 303(d) water body segment and generates pollutants for which the water body segment is impaired; and a narrative description including SIC codes which best reflects the principal products or services provided by each facility.

At a minimum, the following sites/sources must be included in the inventory:

(i) Commercial Sites/Sources:

[a] Automobile repair, maintenance, fueling, or cleaning;
[b] Airplane repair, maintenance, fueling, or cleaning;
[c] Boat repair, maintenance, fueling, or cleaning;
[d] Equipment repair, maintenance, fueling, or cleaning;
[e] Automobile and other vehicle body repair or painting;
[f] Mobile automobile or other vehicle washing;
[g] Automobile (or other vehicle) parking lots and storage facilities;
[h] Retail or wholesale fueling;
[i] Pest control services;
[j] Eating or drinking establishments, including food markets;

[k] Mobile carpet, drape or furniture cleaning;
[l] Cement mixing or cutting;
[m] Masonry;
[n] Painting and coating;
[o] Botanical or zoological gardens and exhibits;
[p] Landscaping;
[q] Nurseries and greenhouses;
[r] Golf courses, parks and other recreational areas/facilities;
[s] Cemeteries;
[t] Pool and fountain cleaning;
[u] Marinas;
[v] Portable sanitary services;
[w] Building material retailers and storage;
[x] Animal facilities;
[y] Mobile pet services;
[z] Power washing services; and
[aa] Other sites and sources with a history of un-authorized discharges to the MS4.

(ii) Industrial Sites/Sources:

[a] Industrial Facilities, as defined at 40 CFR § 122.26(b)(14), including those subject to the General Industrial Permit or other individual NPDES permit;
[b] Operating and closed landfills;
[c] Facilities subject to SARA Title III; and
[d] Hazardous waste treatment, disposal, storage and recovery facilities.

(iii) ESAs and 303(d) Listed Waterbodies: All other commercial or industrial sites/sources tributary to a CWA Section 303(d) impaired water body segment, where the site/source generates pollutants for which the water body segment is impaired. All other commercial or industrial sites/sources within or directly adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).

(iv) All other commercial or industrial sites/sources that the Copermittee determines may contribute a significant pollutant load to the MS4.

(2) <u>General BMP Implementation</u>

(a) Pollution Prevention: Each Copermittee must require the use of pollution prevention methods by industrial and commercial sites/sources.

(b) Designate / Update Minimum BMPs: Each Copermittee must designate a minimum set of BMPs for all industrial and commercial sites/sources. Where BMPs have already been designated, each Copermittee must review its existing BMPs for adequacy. The designated minimum BMPs must be specific to facility types and pollutant-generating activities, as appropriate.

(c) Designate Enhanced BMPs for ESAs and 303(d) Impairments: Each Copermittee must designate enhanced measures for industrial and commercial sites/sources tributary to CWA section 303(d) impaired water body segments (where a site/source generates pollutants for which the water body segment is impaired). Each Copermittee must also designate additional controls for industrial and commercial sites/sources within or directly adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).

(d) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum and enhanced BMPs and any additional measures necessary based on inspections, incident responses, and water quality data to comply with this Order at each industrial and commercial site/source within its jurisdiction.

(3) <u>BMP Implementation for Mobile Businesses</u>

(a) Each Copermittee must develop and implement a program to reduce the discharge of storm water pollutants from mobile businesses to the MEP and to prohibit non-storm water discharges pursuant to Section B of this Order. Each Copermittee must keep as part of their commercial source inventory a listing of mobile businesses known to operate within its jurisdiction. The program must include:

(i) Development and implementation of minimum standards and BMPs to be required for each of the various types of mobile businesses;
(ii) Development and implementation of an enforcement strategy which specifically addresses the unique characteristics of mobile businesses;
(iii) Notification of those mobile businesses known to operate within the Copermittee's jurisdiction of the minimum standards and BMP requirements and local ordinances;
(iv) Development and implementation of an outreach and education strategy; and
(v) Inspection of mobile businesses as needed to implement the program.

(b) If they choose to, the Copermittees may cooperate in developing and implementing their programs for mobile businesses, including sharing of mobile business inventories, BMP requirements, enforcement action

information, and education.

(4) Inspection of Industrial and Commercial Sites/Sources

Each Copermittee must conduct industrial and commercial site inspections for compliance with its ordinances, permits, and this Order.

(a) Inspection Procedures: Inspections must include but not be limited to:

(i) Review of BMP implementation plans, if the site uses or is required to use such a plan;

(ii) Review of facility monitoring data, if the site monitors its runoff;

(iii) Check for coverage under the General Industrial Permit (Notice of Intent (NOI) and/or Waste Discharge Identification Number), if applicable;

(iv) Assessment of compliance with Copermittee ordinances and permits related to runoff;

(v) Assessment of BMP implementation, maintenance and effectiveness;

(vi) Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff; and

(vii) Education and training on storm water pollution prevention, as conditions warrant.

(b) Each Copermittee shall annually notify the Regional Board, prior to the commencement of the wet season, of all Industrial Sites and Industrial Facilities subject to the General Industrial Permit or other individual NPDES permit with alleged violations. Information may be provided as part of the JRMP annual report if submitted prior to the rainy season. Information provided shall include, but not be limited to, the following:

(i) WDID number if enrolled under the General Industrial Permit;
(ii) Site Location, including address;
(iii) Current violations or suspected violations; and
(iv) Past Violation history.

(c) Frequencies: At a minimum, 20 percent of the sites inventoried as required in section F.3.b.(1) above (excluding mobile sources and food facilities) must be inspected each year. Mobile businesses must be

inspected pursuant to the enforcement strategy developed pursuant to section F.3.b.(3). Other inspection frequencies must be based upon findings of the Copermittee's existing program and the following factors:

(i) Type of activity (SIC code);
(ii) Materials used at the facility;
(iii) Wastes generated;
(iv) Pollutant discharge potential;
(v) Non-storm water discharges;
(vi) Size of facility;
(vii) Proximity to receiving water bodies;
(viii) Sensitivity of receiving water bodies;
(ix) Whether the facility is subject to the General Industrial Permit or an individual NPDES permit;
(x) Whether the facility has filed a No Exposure Certification/Notice of Non-Applicability;
(xi) Facility design;
(xii) Total area of the site, area of the site where industrial or commercial activities occur, and area of the site exposed to rainfall and runoff;
(xiii) The facility's compliance history; and
(xiv) Any other relevant factors.

(d) Food Facilities: Each food facility must be inspected annually for compliance with the Copermittee's water quality ordinances and this Order. Each inspection of a food facility must, at a minimum, address the following concerns:

(i) Trash storage and disposal;
(ii) Grease storage and disposal;
(iii) Washwater discharges to the MS4 (e.g., from floor mats, driveways, sidewalks, etc.);
(iv) Identification of outdoor sewer and MS4 connections; and
(v) Education of property managers when grease and/or trash facilities are shared by multiple facilities.

(e) Third-Party Inspections: Each Copermittee may develop and implement a third party inspection program for verifying industrial and commercial site/source compliance with its ordinances, permits, and this Order. To the extent that third party inspections are conducted to fulfill the requirements of this Order, the Copermittee will be responsible for conducting and documenting quality assurance and quality control of the third-party inspections.

(i) Each inspection conducted by a third-party must, at a minimum, result in the following:

[a] Photo documentation of potential storm water violations identified during the third party inspection;
[b] Reporting to the Copermittee of identified significant potential violations, including imminent or observed illegal discharges, within 24 hours of the third party inspection;
[c] Reporting to the Copermittee of all inspection findings within one week of the inspection being conducted; and
[d] Copermittee follow-up and/or enforcement actions for identified potential storm water violations within two business days of the inspection or potential violation report receipt.

(f) Based upon site inspection findings, each Copermittee must implement all follow-up actions and enforcement necessary to comply with this Order.

(g) To the extent that the Regional Board has conducted an inspection of an industrial site during a particular year, the requirement for the responsible Copermittee to inspect this facility during the same year will be satisfied.

(h) The Copermittees must track the number of inspections for the inventoried industrial and commercial sites/sources throughout the reporting period to verify that the sites/sources are inspected at the minimum frequencies listed in this Order.

(5) Enforcement of Industrial and Commercial Sites/Sources

Each Copermittee must enforce its storm water ordinance for all industrial and commercial sites/sources as necessary to maintain compliance with this Order. Copermittee ordinances or other regulatory mechanisms must include appropriate sanctions to achieve compliance. Sanctions must include the following or their equivalent: Non-monetary penalties, fines, bonding requirements, and/or permit denials for non-compliance.

(6) Training and Education for Owners and Operators of Commercial and Industrial Activities

(a) Each Copermittee must implement an education program using all media as appropriate to (1) measurably increase the knowledge of owners and operators of commercial and industrial activities regarding MS4s, impacts of runoff on receiving waters, and potential BMP solutions for the target audience; and (2) to measurably change the behavior of target communities and thereby reduce storm water pollutant releases and eliminate prohibited non-storm water discharges to MS4s and the environment. At a minimum, the education program must meet the requirements of this section and address the following issues:

(i) Laws, regulations, permits, & requirements;

(ii) Best management practices;
(iii) General runoff concepts; and

(iv) Other topics, including public reporting mechanisms, water conservation, low-impact development techniques.

(b) BMP Notification: At least twice during the five-year period of this Order, each Copermittee must notify the owner/operator of each inventoried industrial and commercial site/source of the BMP requirements applicable to the site/source.

c. RESIDENTIAL

Each Copermittee must implement a residential program which meets the requirements of this section, prevents illicit discharges into the MS4, reduces residential discharges of storm water pollutants from the MS4 to the MEP, and prevents residential discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Threat to Water Quality Prioritization

Each Copermittee must identify residential areas and activities that pose a high threat to water quality. At a minimum, these must include:

(a) Automobile repair, maintenance, washing, and parking;
(b) Home and garden care activities and product use (pesticides, herbicides, and fertilizers);
(c) Disposal of trash, pet waste, green waste, and household hazardous waste (e.g., paints, cleaning products);
(d) Any other residential source that the Copermittee determines may contribute a significant pollutant load to the MS4;
(e) Any residential areas tributary to a CWA section 303(d) impaired water body, where the residence generates pollutants for which the water body is impaired; and
(f) Any residential areas within or directly adjacent to or discharging directly to a coastal lagoon, the ocean, or other receiving waters within an environmentally sensitive area (as defined in Attachment C of this Order).

(2) BMP Implementation

(a) Pollution Prevention: Each Copermittee must actively encourage the use of pollution prevention methods by residents.

(b) Designate BMPs: Each Copermittee must designate minimum BMPs for high-threat-to-water quality residential areas and activities. The designated minimum BMPs for high-threat-to-water quality residential

areas and activities must be area or activity specific.

(c) Hazardous Waste BMPs: Each Copermittee must facilitate the proper management and disposal of used oil, toxic materials, and other household hazardous wastes. Such facilitation must include educational activities, public information activities, and establishment of collection sites operated by the Copermittee or a private entity. Curbside collection of household hazardous wastes is encouraged.

(d) Implement BMPs: Each Copermittee must implement, or require implementation of, the designated minimum BMPs and any additional measures necessary to comply with Sections A and B of this Order.

(e) Each Copermittee must implement, or require implementation of, BMPs for residential areas and activities that have not been designated a high threat to water quality, as necessary.

(3) Enforcement of Residential Areas and Activities

Each Copermittee must enforce its storm water ordinance for all residential areas and activities as necessary to maintain compliance with this Order.

(4) Evaluation of Oversight of Residential Areas and Activities

Each Copermittee must annually review the effectiveness of efforts to reduce residential discharges of storm water pollutants from the MS4 and eliminate illicit residential discharges into the MS4. The evaluation must consider findings from monitoring data, municipal employee comments, inspections, complaints, and other appropriate sources.

(5) Common Interest Areas (CIA) / Home Owner Association (HOA) Areas

Each Copermittee must implement measures specifically to ensure that runoff within common interest developments, including areas managed by associations, meets the objectives of this section and Order.

(a) BMP Implementation: Each Copermittee must implement management measures based on a review of pertinent factors, including:

(i) Current maintenance duties and procedures used by CIA/HOA maintenance associations within its jurisdiction;
(ii) Whether streets and storm drains are publicly or privately owned within the CIA/HOA;
(iii) Whether the CIA/HOA area has been identified as a high priority residential area;
(iv) Proximity to 303(d)-listed waterbodies, the ocean, environmentally

sensitive areas;
(v) Evaluation of water quality monitoring data;
(vi) Evaluation of existing illegal discharge/illicit connection activities;
(vii) Other activities conducted or authorized by the HOA that may pose a significant risk to inland or coastal receiving waters.

(b) Legal Authority and Enforcement: Within one year of adoption of this Order, each Copermittee must review its Municipal Code to determine the most appropriate method to implement and enforce runoff management measures within CIA/HOA areas.

(6) Residential Education Program

(a) Each Copermittee must implement a Residential Education Program using all media as appropriate to (1) measurably increase the knowledge regarding MS4s, impacts of runoff on receiving waters, and potential BMP solutions for the target audience; and (2) to measurably change the behavior of target communities and thereby reduce storm water and eliminate prohibited non-storm water pollutant releases to MS4s and the environment.

(b) Copermittee educational programs must emphasize underserved target audiences, residents and managers of CIA/HOA areas, high-risk behaviors, and "allowable" behaviors and discharges. At a minimum, the education program must meet the requirements of this section and address the following issues:

(i) Laws, regulations, permits, and requirements;
(ii) Best management practices;
(iii) General runoff concepts;
(iv) Existing water quality, including local water quality conditions, impaired waterbodies and environmentally sensitive areas; and
(v) Other topics, including public reporting mechanisms, water conservation, low-impact development techniques, and public health and disease vector issues associated with runoff.

d. Retrofitting Existing Development

Each Copermittee must develop and implement a retrofitting program which meets the requirements of this section. The goals of the existing development retrofitting program are to reduce impacts from hydromodification, promote LID, support riparian and aquatic habitat restoration, reduce the discharges of storm water pollutants from the MS4 to the MEP, and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards. Where feasible, at the discretion of the Copermittee, the existing development retrofitting program may be coordinated with flood control projects and infrastructure

improvement programs.

(1) Source Identification

The Copermittee must identify and inventory existing developments (i.e. municipal, industrial, commercial, residential) as candidates for retrofitting. Potential retrofitting candidates must include but are not limited to:

(a) Development that contributes pollutants of concern to a TMDL or a ESA;
(b) Receiving waters channelized or otherwise hardened;
(c) Development tributary to receiving waters that are channelized or otherwise hardened;
(d) Developments tributary to receiving waters that are significantly eroded;
(e) Developments tributary to an ASBS or SWQPA; and
(f) Development that causes hydraulic constriction.

(2) Each Copermittee shall evaluate and rank the inventoried existing developments to prioritize retrofitting. Criteria for evaluation must include but is not limited to:

(a) Feasibility;
(b) Cost effectiveness;
(c) Pollutant removal effectiveness;
(d) Impervious area potentially treated;
(e) Maintenance requirements;
(f) Landowner cooperation;
(g) Neighborhood acceptance;
(h) Aesthetic qualities; and
(i) Efficacy at addressing concern.

(3) Each Copermittee must consider the results of the evaluation in prioritizing work plans for the following year. Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs. Where feasible, the retrofit projects should be designed in accordance with the SSMP requirements within sections F.1.d.(3) through F.1.d.(8). In addition, the Copermittee shall encourage retrofit projects to implement where feasible the Hydromodification requirements in Section F.1.h.

(4) When requiring retrofitting on existing development, the Copermittees will cooperate with private landowners to encourage retrofitting projects. The Copermittee may consider the following practices in cooperating and encouraging private landowners to retrofit their existing development:

(a) Demonstration retrofit projects;
(b) Retrofits on public land and easements;

(c) Education and outreach;
(d) Subsidies for retrofit projects;
(e) Requiring retrofit projects as mitigation or ordinance compliance;
(f) Public and private partnerships; and
(g) Fees for existing discharges to the MS4.

(5) The completed retrofit BMPs shall be tracked and inspected in accordance with section F.1.f.

(6) Where constraints on retrofitting preclude effective BMP deployment on existing developments at locations critical to protect receiving waters, a Copermittee may propose a regional mitigation project to improve water quality. Such regional projects may include but are not limited to:

(a) Regional water quality treatment BMPs;
(b) Urban creek or wetlands restoration and preservation;
(c) Daylighting and restoring underground creeks;
(d) Localized rainfall storage and reuse to the extent such projects are fully protective of downstream water rights;
(e) Hydromodification project; and
(f) Removal of invasive plant species.

(7) A retrofit project or regional mitigation project may qualify as a Watershed Water Quality Activity provided it meets the requirements in section G. Watershed Runoff Management Program.

4. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Each Copermittee must implement a program which meets the requirements of this section to actively detect and eliminate illicit discharges and disposal into the MS4. The program must address all types of illicit discharges and connections excluding those non-storm water discharges not prohibited by the Copermittee in accordance with section B of this Order.

a. PREVENT AND DETECT ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee must implement measures to prevent and detect illicit discharges to the MS4.

(1) Legal Authority: Each Copermittee must retain legal authority to prevent and eliminate illicit discharges and connections to the MS4.

(2) Inspections: Each Copermittee must include use of appropriate municipal personnel and contractors to assist in identifying illicit discharges and connections during their daily activities.

(a) Inspections for illegal discharges and connections must be conducted during routine maintenance of all MS4 facilities.

(b) Municipal staff and contractors conducting non-MS4 field operations must be trained to report suspected illegal discharges and connections to proper municipal staff.

b. MAINTAIN MS4 MAP

Each Copermittee must maintain an updated map of its entire MS4 and the corresponding drainage areas within its jurisdiction. The use of GIS is required. The accuracy of the MS4 map must be confirmed during dry weather field screening and analytical monitoring and must be updated at least annually. The GIS layers of the MS4 map must be submitted with the updated Jurisdictional Runoff Management Plan within 365 days after adoption of this Order.

c. FACILITATE PUBLIC REPORTING OF ILLICIT DISCHARGES AND CONNECTIONS - PUBLIC HOTLINE

Each Copermittee must promote, publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s. Each Copermittee must facilitate public reporting through development and operation of a public hotline. Public hotlines can be Copermittee-specific or shared by Copermittees. All storm water hotlines must be capable of receiving reports in both English and Spanish 24 hours per day and seven days per week.

d. DRY WEATHER FIELD SCREENING AND ANALYTICAL MONITORING

Each Copermittee must conduct dry weather field screening and analytical monitoring of MS4 outfalls and other portions of its MS4 within its jurisdiction to detect illicit discharges and connections in accordance with Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-0002 in Attachment E of this Order.

e. INVESTIGATION / INSPECTION AND FOLLOW-UP

Each Copermittee must implement procedures to investigate and inspect portions of the MS4 that, based on the results of field screening, analytical monitoring, or other appropriate information, indicate a reasonable potential of containing illicit discharges, illicit connections, or other sources of pollutants in non-storm water.

(1) Develop response criteria for data: Each Copermittee must develop, update, and use numeric criteria action levels (or other actions level criteria where appropriate) to determine when follow-up investigations will be performed in response to water quality monitoring. The criteria must include required

non-storm water action levels (see Section C) and a consideration of 303(d)-listed waterbodies and environmentally sensitive areas (ESAs) as defined in Attachment C.

(2) Respond to data: Each Copermittee must investigate portions of the MS4 for which water quality data or conditions indicates a potential illegal discharge or connection.

(a) Obvious illicit discharges (i.e. color, odor, or significant exceedances of action levels) must be investigated immediately.

(b) Field screen data: Within two business days of receiving dry weather field screening results that exceed action levels, the Copermittees must either initiate an investigation to identify the source of the discharge or document the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. This documentation shall be included in the Annual Report.

(c) Analytical data: Within five business days of receiving analytical laboratory results that exceed action levels, the Copermittees must either initiate an investigation to identify the source of the discharge or document the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. This documentation shall be included in the Annual Report.

(3) Respond to notifications: Each Copermittee must respond to and resolve each reported incident (e.g., public hotline, staff notification, etc.) in a timely manner. Criteria may be developed to assess the validity of, and prioritize the response to, each report.

f. Elimination Of Illicit Discharges And Connections

Each Copermittee must take immediate action to initiate steps necessary to eliminate all detected illicit discharges, illicit discharge sources, and illicit connections after detection. Elimination measures may include an escalating series of enforcement actions for those illicit discharges that are not a serious threat to public health or the environment. Illicit discharges that pose a serious threat to the public's health or the environment must be eliminated immediately.

g. Enforce Ordinances

Each Copermittee must implement and enforce its ordinances, orders, or other legal authority to prevent illicit discharges and connections to its MS4 and to eliminate detected illicit discharges and connections to it's MS4.

h. PREVENT AND RESPOND TO SEWAGE SPILLS (INCLUDING FROM PRIVATE LATERALS AND FAILING SEPTIC SYSTEMS) AND OTHER SPILLS

(1) Each Copermittee must implement management measures and procedures to prevent, respond to, contain and clean up all sewage (see below) and other spills that may discharge into its MS4 from any source (including private laterals and failing septic systems). Copermittees must coordinate with spill response teams to prevent entry of spills into the MS4 and contamination of surface water, ground water and soil. Each Copermittee must coordinate spill prevention, containment and response activities throughout all appropriate departments, programs and agencies so that maximum water quality protection is available at all times.

(2) Each Copermittee must develop and implement a mechanism whereby it is notified of all sewage spills from private laterals and failing septic systems into its MS4. Each Copermittee must implement management measures and procedures to prevent, respond to, and coordinate a response to contain and clean up sewage from any such notification.

i. EDUCATION AND TRAINING

Each Copermittee must implement educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials.

5. PUBLIC PARTICIPATION COMPONENT

Each Copermittee must incorporate a mechanism for public participation in the updating, development, and implementation of the Jurisdictional Runoff Management Program.

Administrative Record Page No. 025175

G. WATERSHED RUNOFF MANAGEMENT PROGRAM

1. Lead Watershed Copermittee Identification

Watershed Copermittees shall identify the Lead Watershed Copermittee for their Watershed Management Area (WMA). The Lead Watershed Copermittees shall serve as liaisons between the Permittees and Regional Board, where appropriate.

2. Watershed Water Quality Workplan (Watershed Workplan)

The Watershed Workplan shall describe the Permittees' development and implementation of a collective watershed strategy to assess and prioritize the water quality problems within the watershed's receiving waters, identify and model sources of the highest priority water quality problem(s), develop a watershed-wide BMP implementation strategy to abate highest priority water quality problems, and a monitoring strategy to evaluate BMP effectiveness and changing water quality prioritization in the WMA.

The work plan shall, at a minimum:

a. Characterize the receiving water quality in the WMA. Characterization shall include use of regularly collected water quality data, reports, monitoring and analysis generated in accordance with the requirements of the Receiving Waters Monitoring and Reporting Program, as well as applicable information available from other public and private organizations.

b. Identify the highest priority water quality problem(s), in terms of constituents by location, in the WMA's receiving waters. Identified water quality problem(s) shall, at a minimum, give consideration to; TMDLs, receiving waters listed on the CWA section 303(d) list, waters with persistent violations of water quality standards, toxicity, or impacts to beneficial uses, and other pertinent conditions.

c. Identify the sources of the highest water quality problem(s) within the WMA. Efforts to determine such sources shall include, but not be limited to: use of information from the construction, industrial/commercial, municipal, and residential source identification programs required within the Jurisdictional Runoff Program (JRMP) of this Order; specific actions to model pollutant transport to receiving waters for the sake of identifying the source(s) point(s) of origin; water quality monitoring data collected as part of the Receiving Water Monitoring and Reporting Program required by this Order, and additional focused water quality monitoring to identify specific sources within the watershed.

d. Develop a watershed BMP implementation strategy to attain receiving water quality objectives in the identified highest priority water quality problem(s). The BMP implementation strategy shall include a schedule for implementation of the BMP projects to abate specific receiving water quality problems. BMPs not

contributing to measured pollutant reductions or improvements to water quality must be removed and replaced with alternative BMPs. Identified watershed water quality problems may be the result of jurisdictional discharges that will need to be addressed with BMPs applied in a specific jurisdiction in order to generate a benefit to the watershed.

e. Develop a strategy to model and monitor improvements in receiving water quality directly resulting from implementation of the BMPs described in the Watershed Workplan. The modeling and monitoring strategy shall generate the necessary data to report on the measured pollutant reduction that results from proper BMP implementation. Monitoring shall, at a minimum, be conducted in the receiving water to demonstrate reduction in pollutant concentrations and progression towards attainment of receiving water quality objectives.

f. Establish a schedule for development and implementation of the Watershed strategy outlined in the Workplan. The schedule shall, at a minimum, include forecasted dates of planned actions to address Provisions E.2(a) through E.2(e) and dates for watershed review meetings through the remaining portion of this Permit cycle. Annual watershed workplan review meetings must be open to the public and appropriately publically noticed such that interested parties may come and provide comments on the watershed program.

3. **Watershed Workplan Implementation –** Watershed Copermittee's shall begin implementing the Watershed Workplan within 60-days of acceptance by the Regional Board Executive Officer. If within 30 days of submittal, the Regional Board has not taken an action, the Workplan shall be deemed acceptable.

4. **Copermittee Collaboration** – Watershed Copermittees shall collaborate to develop and implement the Watershed Workplan. Watershed Copermittee collaboration shall include frequent regularly scheduled meetings.

5. **Public Participation –** Watershed Copermittees shall implement a watershed-specific public participation mechanism within each watershed. A required component of the watershed-specific public participation shall be a minimum 30-day public review of the Watershed Workplan prior to submittal for acceptance by the Regional Board Execuive Officer. Opportunity for the public to review and comment on the Watershed Workplan must occur before the workplan is implemented.

6. **Watershed Workplan Review and Updates –** Watershed Copermittees shall review and update the Watershed Workplan annually to identify needed changes to the prioritized water quality problem(s) listed in the workplan. All updates to the Watershed Workplan shall be presented during an Annual Watershed Review Meeting. Annual Watershed Review Meetings shall occur once every calendar year and be conducted by the Watershed Copermittees. Annual Watershed Review Meetings shall be open to the public and adequately noticed. Individual Watershed Copermittees shall also review and modify their jurisdictional programs and JRMP

Annual Reports, as necessary, so that they are consistent with the updated Watershed Workplan.

7. Aliso Creek Watershed Runoff Management Plan (WRMP) Provisions

The following provisions apply to the Aliso Creek WRMP. Requirements in this subsection must supersede requirements prescribed by the Regional Board on October 18, 2005.[20]

a. Each Copermittee within the Aliso Creek Watershed must implement the monitoring and reporting program described in *Aliso Creek 13325 Directive, Revised Monitoring Program Design – Integration with NPDES Program*, December 2004 (Revised Aliso Creek Program).

b. Each Copermittee must provide annual reports by March 1 of each year beginning in 2011 for the preceding annual period of January through December. The annual reports must contain the following information:

(1) Water quality data and assessment from the Revised Aliso Creek Program. Each municipality must implement the monitoring and reporting program described in the Revised Aliso Creek Program. All information submitted in the report must conform to a SWAMP-Compatible Quality Assurance Project Plan[21]. The report must contain an assessment of compliance with applicable water quality standards for each monitoring station. The report must include data in tabular and graphical form, and electronic data must be submitted to the Regional Board.

(2) Program Assessment. A description and assessment of each municipality's program implemented within the high-priority storm drain locations (as identified Revised Aliso Creek Program) to reduce discharges of indicator fecal bacteria/pathogens. Monitoring alone is not sufficient to assess progress of the municipal programs. Municipalities must demonstrate each year that their programs are effective and resulting in a reduction of bacteria sources.

(i) For structural and nonstructural management practices implemented, the assessment must contain a description of the

[20] On October 12, 2005, the Regional Board accepted proposed changes to the bacteria monitoring program that had been conducted since spring 2001 pursuant to an Investigative Order from the Regional Board's executive officer. The October 18, 2005, letter from the Regional Board's executive officer revised the Investigative Order and instituted the new monitoring and reporting requirements.

[21] The State Water Resource Control Board (State Board) has prepared an electronic template for Quality Assurance Project Plans (QAPP) to assist in QAPP development, to provide a common format that will allow for review to be expedited, and to provide information on Surface Water Ambient Monitoring (SWAMP) consistency. Additional information and the template are available on-line at http://www.waterboards.ca.gov/swamp/qapp.html.

practice, capital and maintenance costs, expectations for effectiveness, date implemented, and any observed results.

(ii) For structural and nonstructural management practices evaluated, the assessment must contain a description of the practice(s), conclusions from the evaluation, and whether and when the practice is planned for implementation by the municipality or group of municipalities.

(3) Status Reports. Updates on high-priority storm drain areas. Status reports must be provided by each municipality that discuss the causes of impairment and subsequent management activities implemented within the reporting period in the high priority areas and the planned activities for the next reporting period.

(4) Certification Statement. The technical reports submitted to the Regional Board must include the following certification statement signed by either the principal executive officer, ranking elected official, or duly authorized representative of that person:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

c. The annual reports must be submitted until the Regional Board determines they are no longer warranted. If requested by a municipality, the monitoring program may be modified or reduced by the Regional Board. The monitoring program and annual reporting may be modified in response to adopted TMDLs and additional Clean Water Act 303(d) listings for impairment.

d. Municipalities must continue meeting on a quarterly basis to discuss efforts to reduce bacteria in the Aliso Creek watershed.

H. FISCAL ANALYSIS

1. Secure Resources: Each Copermittee must secure the resources necessary to meet all requirements of this Order.

2. Annual Analysis: Each Copermittee must conduct an annual fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs required by this Order. The analysis must include estimated expenditures for the reporting period, the preceding period, and the next reporting period.

- **a.** Each analysis must include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.
- **b.** Each analysis must include a narrative description of circumstances resulting in a 25 percent or greater annual change for any budget line items.

3. Annual Reporting: Each Copermittee must submit its annual fiscal analysis with the annual JRMP report.

I. TOTAL MAXIMUM DAILY LOADS

The waste load allocations (WLAs) of fully approved and adopted TMDLs are incorporated as Water Quality Based Effluent Limitations on a pollutant by pollutant, watershed by watershed basis. Early TMDL requirements, including monitoring, may be required and inserted into this Order pursuant to Finding E.10

1. Baby Beach Bacterial Indicator TMDL Water Quality Based Effluent Limitations

a. The Copermittees in the Baby Beach watershed shall implement BMPs capable of achieving the interim and final Bacterial Indicator Waste Load Allocations (WLAs) in discharges to Baby Beach as described in Table 6.

Table 6: TMDL Waste Load Reduction Milestones

Action	Date
Meet 50% wasteload reductions	3 years after effective date for dry weather
	7 years after effective date for wet weather
Meet 100% wasteload reductions	5 years after effective date for dry weather
	10 years after effective date for wet weather

b. The Copermittees shall conduct necessary monitoring, as described in Attachment A to Resolution No. R9-2008-0027, and submit annual progress reports as part of their yearly reports.

c. The following WLAs (Table 7) are to be met in Baby Beach receiving water by the end of the year 2019 for wet weather and 2014 for dry weather:

Table 7: Final Bacterial Indicator Waste Load Allocations for Baby Beach

	Waste Load Allocation	
Bacterial Indicator	Dry Weather (Billion MPN / Day)	Wet Weather (Billion MPN / 30 Days)
Total Coliform	0.86	3,254
Fecal Coliform	0.17	112
Enterococcus	0.03	114

MPN: Most Probable Number

d. The Copermittees must meet the following Numeric Targets (Table 8) in Baby Beach receiving waters in order to meet the underlying assumptions of the TMDL. The Numeric Targets are to be met once 100 percent of the WLA reductions have been achieved (see Table 7 above).

Table 8: Final Bacterial Indicator Numeric Targets for Baby Beach

Bacterial Indicator	30-day geo mean (MPN / 100mL)	Single Sample Max (MPN / 100mL)
	Dry Weather only	Dry and Wet Weather
Total Coliform	1,000	10,000
Fecal Coliform	200	400
Enterococcus	35	104

MPN: Most Probable Number

J. PROGRAM EFFECTIVENESS ASSESSMENT AND REPORTING

1. Jurisdictional Program Effectiveness Assessments

a. OBJECTIVES OF EFFECTIVENESS ASSESSMENTS

Beginning with the Annual Report due in 2011, each Copermittee must annually assess the effectiveness of its Jurisdictional Runoff Management Program (JRMP) implementation at meeting the following objectives:

(1) Objective for 303(d) Waterbodies: Reduce storm water pollutant loadings.

(a) Each Copermittee must establish annual assessment measures or methods specifically for reducing discharges of storm water pollutants from its MS4 into each downstream 303(d)-listed water body for which that waterbody is impaired. Assessment measures must be developed for each of the six outcome levels described by CASQA.[22]
(b) Each Copermittee must annually conduct each established assessment measure or method and evaluate the outcome. Each outcome must then be used to assess the effectiveness of implemented management measures toward reducing MS4 discharges of the specific pollutants causing or contributing to conditions of impairment.
(c) The assessment measures must target both water quality outcomes and the results of municipal enforcement activities.

(2) Objective for Environmentally-Sensitive Areas: Prevent storm water MS4 discharges from causing or contributing to conditions of pollution, nuisance, or contamination.

(a) Each Copermittee must establish annual measures or methods specifically for assessing the effectiveness of its management measures for protecting downstream ESAs from adverse effects caused by discharges from its MS4. Assessment measures must be developed for each of the six outcome levels described by CASQA.
(b) Each Copermittee must annually implement each established assessment measure or method and evaluate the outcome. Each outcome must be used to assess the effectiveness of implemented management measures toward reducing MS4 discharges of the specific pollutants causing or contributing to conditions of impairment.
(c) The assessment measures must target both water quality outcomes and the results of municipal enforcement activities.

(3) Objectives for major program component outcomes: Determined by Each

[22] Effectiveness assessment outcome levels as defined by CASQA are defined in Attachment C of this Order. See "*Municipal Stormwater Program Effectiveness Assessment Guidance"* (CASQA, May 2007) for guidance for assessing program activities at the various outcome levels.

Copermittee.

(a) Each Copermittee must annually develop objectives for each program component in Section F and the overall JRMP. The objectives must be established as appropriate in response to program implementation and evaluation of water quality and management practices.
(b) Assessment approaches for program implementation must include a mix of specific activities, general program components, and water quality data.
(c) The assessment measures must target both water quality outcomes and the results of municipal enforcement activities.

(4) Objectives for actions taken to protect receiving water limitations in accordance with this Order.

(a) Each Copermittee must develop and implement an effectiveness assessment strategy for each measure conducted in response to a determination to implement the "iterative" approach to prevent or reduce any storm water pollutants that are causing or contributing to the exceedance of water quality standards as outlined in this Order

b. ASSESSMENT REVIEW

(1) Based on the results of the effectiveness assessments, each Copermittee must annually review its jurisdictional activities and BMPs to identify modifications and improvements needed to maximize JRMP effectiveness, as necessary to achieve compliance with this Order.

(2) Each Copermittee must develop and annually conduct an Integrated Assessment[23] of each effectiveness assessment objective above (Section J.1.a) and the overall JRMP using a combination of outcomes as appropriate to the objectives.[24]

2. Program Modifications

a. Each Copermittee must develop and implement a plan and schedule to address program modifications and improvements identified during annual effectiveness assessments.

b. Jurisdictional activities/BMPs that are ineffective or less effective than other comparable jurisdictional activities/BMPs must be replaced or improved upon by implementation of more effective jurisdictional activities/BMPs. Where monitoring data exhibits persistent water quality problems that are caused or

[23] Integrated assessment is defined in Attachment C. It is the process of evaluating whether program implementation is resulting in the protection or improvement of water quality. Integrated assessment combines assessments of program implementation and water quality.
[24] Not all program components need be addressed at each of the six outcome levels.

contributed to by MS4 discharges, jurisdictional activities or BMPs applicable to the water quality problems must be modified and improved to correct the water quality problems.

3. Effectiveness Assessment and Program Response Reporting

a. Each Copermittee must include a description and summary of its annual and long-term effectiveness assessments within each Annual Report. Beginning with the Annual Report due in 2011, the Program Effectiveness reporting must include:

(1) 303(d) waterbodies: A description and results of the annual assessment measures or methods specifically for reducing discharges of storm water pollutants from its MS4 into each 303(d)-listed waterbody;
(2) ESAs: A description and results of the annual assessment measures or methods specifically for managing discharges of pollutants from its MS4 into each downstream ESA;
(3) Other Program Components: A description of the objectives and corresponding assessment measures and results used to evaluate the effectiveness of each general program component. The results must include findings from both program implementation and water quality assessment where applicable;
(4) Receiving water protection: A description and results of the annual assessment measures or methods employed specifically for actions taken to protect receiving water limitations in accordance with Section A.3 of this Order;
(5) A description of the steps taken to use dry-weather and wet-weather monitoring data to assess the effectiveness of the programs for 303(d) impairments, ESAs, and general program components;
(6) A description of activities conducted in response to investigations of illicit discharge and illicit connection activities, including how each investigation was resolved and the pollutant(s) involved;
(7) Responses to effectiveness assessments: A description of each program modification, made in response to the results of effectiveness assessments conducted pursuant to Section J.1.a, and the basis for determining (pursuant to Section J.2.b.) that each modified activity and/or BMP represents an improvement with respect to reducing the discharge of storm water pollutants from the MS4.
(8) A description of the steps that will be taken to improve the Copermittee's ability to assess program effectiveness using measurable targeted outcomes, assessment measures, assessment methods, and outcome levels 1-6. Include a time schedule for when improvement will occur; and

(9) A description of the steps that will be taken to identify aspects of the Copermittee's Jurisdictional Runoff Management Program that will be changed based on the results of the effectiveness assessment.

4. Work Plan

Each Copermittee must develop a work plan to address their high priority water quality problems in an iterative manner over the life of the permit. The goal of the work plan is to demonstrate a responsive and adaptive approach for the judicious and effective use of available resources to attack the highest priority problems. The work plan shall include, at a minimum, the following:

a. The problems and priorities identified during the assessment;
b. A list of priority pollutants and known or suspected sources;
c. A brief description of the strategy employed to reduce, eliminate or mitigate the negative impacts;
d. A description and schedule for new and/or modified BMPs. The schedule is to include dates for significant milestones;
e. A description of how the selected activities will address an identified high priority problem. This will include a description of the expected effectiveness and benefits of the new and/or modified BMPs;
f. A description of implementation effectiveness metrics;
g. A description of how efficacy results will be used to modify priorities and implementation; and
h. A review of past activities implemented, progress in meeting water quality standards, and planned program adjustments.

The Copermittee shall submit the work plan to the Regional Board within 365 days of adoption of the Order. Annual updates are also required and shall be included with the annual JRMP report. The Regional Board will assess the work plan for compliance with the specific and overall requirements of the Order. To increase effectiveness and efficiencies, Copermittees may combine their implementation efforts and work plans within a hydrologic area or sub area. Each Copermittee, however, maintains individual responsibility for developing and implementing an acceptable work plan.

K. REPORTING

The Copermittees may propose alternate reporting criteria and schedules, as part of their updated JRMP, for the Executive Officer's acceptance. The Copermittees shall submit the updated JRMP within 365 days after adoption of this Order.

1. Runoff Management Plans

a. JURISDICTIONAL RUNOFF MANAGEMENT PLANS

(1) Copermittees: The written account of the overall program to be conducted by each Copermittee to meet the jurisdictional requirements of section F of this Order is referred to as the Jurisdictional Runoff Management Plan (JRMP). Each Copermittee must revise and update its existing JRMP so that it describes all activities the Copermittee will undertake to implement the requirements of this Order. Each Copermittee must submit its updated and revised JRMP to the Regional Board 365 days after adoption of this Order.

(2) At a minimum, each Copermittee's JRMP must be updated and revised to demonstrate compliance with each applicable section of this Order.

b. WATERSHED WORKPLANS

(1) Copermittees: The written account of the program conducted by each watershed group of Copermittees is referred to as the Watershed Workplan. Copermittees within each watershed shall be responsible for updating and revising each Watershed Workplan. Each Watershed Workplan shall be updated and revised to describe any changes in water quality problems or priorities in the WMAs, and any necessary change to actions Copermittees will take to implement jurisdictional or watershed BMPs to address those identified.

(2) Lead Watershed Copermittee: Each Lead Watershed Permittee shall be responsible for coordinating the production of the Watershed Workplan, as well as coordinating Annual Watershed Review Meetings and public participation/public noticing in accordance with the requirements of this Order. The Lead Watershed Permittee shall submit the Watershed Workplan to the Principal.

(3) Principal Copermittee: The Principal Permittee shall assemble and submit the Watershed Workplan to the Regional Board no later than 365 days after adoption of this Order, and shall be prepared to implement the workplan within 60 days of the Regional Board Executive Officer deeming the workplan acceptable.

(4) Each Watershed Workplan shall, at a minimum, include:

(a) Identification of the Lead Watershed Permittee for the watershed.
(b) An updated watershed map.
(c) Identification and description of all applicable water quality data, reports, analyses, and other information to be used to assess receiving water quality.
(d) Assessment and analysis of the watershed's water quality data, reports, analyses, and other information, used during identification and prioritization of the watershed's water quality problems.
(e) A prioritized list of water quality problems within the WMA including rationale explaining the method/logic used to determine prioritization.
(f) Identification of the likely sources, pollutant discharges, and/or other factors causing the high priority water quality problems within the WMA.
(g) A description of the strategy to be used to guide Copermittee implementation of BMPs either jurisdictionally or on a watershed-wide basis to abate the highest water quality problems
(h) A list of criteria used to evaluate BMP effectiveness and how it was applied.
(i) A GIS map of BMPs implemented and BMPs scheduled for implementation.
(j) A description of the public participation mechanisms to be used and the parties anticipated to be involved during the development and implementation of the Watershed Workplan.
(k) A description of Copermittee collaboration to accomplish development of the Watershed Workplan, including a schedule for Watershed meetings.
(l) A description of how TMDLs and 303(d)-listed water bodies were considered during prioritization of watershed water quality problems
(m) A description of the strategy to model and monitor improvement in receiving water quality directly resulting from implementation of the BMPs described in the Watershed Workplan.
(n) A scheduled annual Watershed Workplan Review Meeting once every calendar year. This meeting shall be open to the public.

2. Other Required Reports and Plans

a. SSMP UPDATES

(1) Copermittees must submit their updated model SSMP in accordance with the applicable requirements of section F.1 with the JRMP two years after adoption of this Order.
(2) Within 180 days of determination that the Model SSMP is in compliance with this Permit's provisions, each Copermittee must update their own local SSMP, and amended ordinances consistent with the model SSMP, and shall submit both (local SSMP and amended ordinances) to the Regional Board.
(3) For SSMP-related requirements of Section F.1 with subsequent

implementation due dates, updated SSMPs must be submitted with the JRMP annual report covering the applicable reporting period.

b. REPORT OF WASTE DISCHARGE

The Principal Copermittee must submit to the Regional Board, no later than 210 days in advance of the expiration date of this Order, a Report of Waste Discharge (ROWD) as an application for issuance of new waste discharge requirements. The fourth annual report for this Order may serve as the ROWD, provided it contains the minimum information below.

At a minimum, the ROWD must include the following: (1) Proposed changes to the Copermittees' runoff management programs; (2) Proposed changes to monitoring programs; (3) Justification for proposed changes; (4) Name and mailing addresses of the Copermittees; (5) Names and titles of primary contacts of the Copermittees; and (6) Any other information necessary for the reissuance of this Order.

3. Annual Reports

a. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM (JRMP) ANNUAL REPORTS

(1) Copermittees: Each Copermittee must generate individual JRMP Annual Reports which cover implementation of its jurisdictional activities during the past annual reporting period. Each Annual Report must verify and document compliance with this Order as directed in this section. Each Copermittee must retain records through 2015, available for review, that document compliance with each requirement of this Order. Each Copermittee must submit to the Principal Copermittee its individual JRMP Annual Report by the date specified by the Principal Copermittee. The reporting period for these annual reports must be the previous fiscal year. For example, the report submitted September 30, 2010 must cover the reporting period July 1, 2009 to June 30, 2010.

(2) Principal Copermittee: The Principal Copermittee is responsible for collecting and assembling each Copermittee's individual JRMP Annual Report. The Principal Copermittee must submit Unified JRMP Annual Reports to the Regional Board by September 30 of each year, beginning on September 30, 2011. The Unified JRMP Annual Report must contain the 13 individual JRMP Annual Reports.

(3) Each JRMP Annual Report must contain, at a minimum, the following information:

(a) Information required to be reported annually in Section H (Fiscal Analysis) of this Order;

(b) Information required to be reported annually in Section J (Program Effectiveness) of this Order;
(c) The completed Reporting Checklist found in Attachment D, and
(d) Information for each program component by watershed as described in the following Table 9:

Table 9. Annual Reporting Requirements

Program Component	Reporting Requirement
New Development	1. Updated relevant sections of the General Plan and environmental review process and a description of planned updates within the next annual reporting period, if applicable
	2. Revisions to the local SSMP, including where applicable: (a) Identification and summary of where the SSMP fails to meet the requirements of this Order; (b) Updated procedures for identifying pollutants of concern for each Priority Development Project; (c) Updated treatment BMP ranking matrix; and (d) Updated site design and treatment control BMP design standards;
	3. Verification that site design, source control, and treatment BMPs were required on all applicable Priority Development Projects;
	4. Description of the application of LID and site design BMPs in the planning and approval process;
	5. Description of projects subject to the local waiver provision for numeric sizing of treatment control BMP requirements;
	6. Description and summary of the LID site design BMP substitution program, if applicable;
	7. Description and summary of the process to verify compliance with SSMP requirements;
	8. Updates to the BMPs that are listed in the local SSMP as options for treatment control;
	9. Description of the treatment control maintenance tracking process and verification that the requirements of this Order were met during the reporting period; (a) Updated watershed-based database of approved treatment control BMPs and treatment control BMP maintenance within its jurisdiction, including updates to the list of high-priority treatment BMPs;
	10. Description of the process for identifying and evaluating hydrologic conditions of concern and requiring a suite of management measures within all Priority Development Projects to protect downstream beneficial uses and prevent adverse physical changes to downstream stream channels;
	11. Description of enforcement activities applicable to the new development and redevelopment component and a summary of the effectiveness of those activities;

Program Component	Reporting Requirement
Construction	1. Updated relevant ordinances and description of planned ordinance updates within the next annual reporting period, if applicable;
	2. A description of procedures used for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality;
	3. Designated minimum and enhanced BMPs;
	4. Summary of the inspection program, including the following information: (a) Number and date of inspections conducted at each facility, including the facility address; (b) Number of facilities lacking adequate BMPs; (c) The BMP violations identified during the inspection by facility; (d) Number, date, and types of enforcement actions by facility; (e) Narrative description of inspection findings and follow-up activities for each facility;
Municipal	1. Updated source inventory;
	2. Changes to the designated municipal BMPs;
	3. Descriptions of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies;
	4. Summary and assessment of BMPs implemented at retrofitted flood control structures, including: (a) List of projects with BMP retrofits; and (b) List and description of structures retrofitted without BMPs;
	5. Description and assessment of the municipal structural treatment control operations and maintenance activities, including: (a) Number of inspections and types of facilities; and (b) Summary of findings;
	6. Description of the municipal areas/facilities operations and maintenance activities, including: (a) Number and types of facilities maintained; (b) Amount of material removed and how that material was disposed; and (c) List of facilities planned for bi-annual inspections and the justification;
	7. Description of the municipal areas/programs inspection activities, including: (a) Number and date of inspections conducted at each facility; (b) Number of facilities lacking adequate BMPs; (c) The BMP violations identified during the inspection by facility; (d) Number, date and types of enforcement actions by facility; (e) Narrative description of inspection findings and follow-up activities for each facility;

Program Component	Reporting Requirement
	8. Description of activities implemented to address sewage infiltration into the MS4;
Commercial / Industrial	1. Annual inventory of commercial / industrial sources;
	2. Summary of the inspection program, including the following information: (a) Number and date of inspections conducted at each facility including the facility address; (b) Number of facilities lacking adequate BMPs; (c) The BMP violations identified during the inspection by facility; (d) Number, date, and types of enforcement actions by facility; (e) Narrative description of inspection findings and follow-up activities for each facility;
	3. Changes to designated minimum and enhanced BMPs;
	4. A list of industrial sites, including each name, address, and SIC code, that the Copermittee suspects may require coverage under the General Industrial Permit, but has not submitted an NOI;
Residential	1. Updated minimum BMPs required for residential areas and activities;
	2. Quantification and summary of applicable runoff and storm water enforcement actions within residential areas and activities;
	3. Description of efforts to manage runoff and storm water pollution in common interest areas;
Illicit Discharge Detection and Elimination	1. Changes to the legal authority to implement Illicit Discharge Detection and Elimination activities;
	2. Changes to the established investigation procedures;
	3. Public reporting mechanisms, including phone numbers and web pages;
	4. All data and assessments from the Dry Weather Effluent Analytical Monitoring activities;
	5. Response criteria developed for water quality data and notifications;
	6. Summaries of illicit discharges (including spills and water quality data events) and how each significant case was resolved;
	7. A description of instances when field screening and analytical data exceeded action levels, but for which no investigation was conducted;
	8. A description of enforcement actions taken in response to investigations of illicit discharges and a description of the effectiveness of those enforcement measures;
	9. A description of controls to prevent infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems;
Work Plan	Priorities, strategy, implementation schedule and effectiveness evaluation;

(4) Each JRMP Annual Report must also include the following information

regarding non-storm water discharges (see Section B.2. of this Order):

(a) Identification of non-storm water discharge categories identified as a source of pollutants to waters of the U.S;
(b) A description of ordinances, orders, or similar means to prohibit non-storm water discharge categories identified under section B.2 above ;
(c) Identification of any control measures to be required and implemented for non-storm water discharge categories identified as needing said controls by the Regional Board; and
(d) A description of a program to address pollutants from non-emergency fire fighting flows identified by the Copermittee to be significant sources of pollutants.

4. Interim Reporting Requirements

For the July 2009-June 2010 reporting period, the Jurisdictional RMP must be submitted on January 31, 2011. Each Jurisdictional RMP Annual Report submitted for this reporting period must, at a minimum, include comprehensive descriptions of all activities conducted to fully implement the Copermittees' Jurisdictional RMP documents, as those documents were developed to comply with the requirements of Order No. 2002-01. The Principal Copermittee must submit these documents in a unified manner, consistent with the unified reporting requirements of Order No. 2002-01.

5. Universal Reporting Requirements

All submittals must include an executive summary, introduction, conclusion, recommendations, and signed certified statement. Each Copermittee must submit a signed certified statement covering its responsibilities for each applicable submittal. The Principal Copermittee must submit a signed certified statement covering its responsibilities for each applicable submittal and the sections of the submittals for which it is responsible.

L. MODIFICATION OF PROGRAMS

Modifications of Jurisdictional Runoff Management Programs and/or Watershed Runoff Management Programs may be initiated by the Executive Officer of the Regional Board or by the Copermittees. Requests by Copermittees must be made to the Executive Officer, and must be submitted during the annual review process. Requests for modifications should be incorporated, as appropriate, into the Annual Reports or other deliverables required or allowed under this Order.

1. Minor Modifications: Minor modifications to Jurisdictional Runoff Management Programs, and/or Watershed Runoff Management Programs, may be accepted by the Executive Officer where the Executive Officer finds the proposed modification complies with all discharge prohibitions, receiving water limitations, and other requirements of this Order.

2. Modifications Requiring an Amendment to this Order: Proposed modifications that are not minor require amendment of this Order in accordance with this Order's rules, policies, and procedures.

M. PRINCIPAL COPERMITTEE RESPONSIBILITIES

Within 180 days of adoption of this Order, the Copermittees must designate the Principal Copermittee and notify the Regional Board of the name of the Principal Copermittee. The Principal Copermittee must, at a minimum:

1. Serve as liaison between the Copermittees and the Regional Board on general permit issues, and when necessary and appropriate, represent the Copermittees before the Regional Board.
2. Coordinate permit activities among the Copermittees and facilitate collaboration on the development and implementation of programs required under this Order.
3. Integrate individual Copermittee documents and reports into single unified documents and reports for submittal to the Regional Board as required under this Order.
4. Produce and submit documents and reports as required by section K of this Order and Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-0002 in Attachment E of this Order.

N. RECEIVING WATERS AND MS4 DISCHARGE MONITORING AND REPORTING PROGRAM

Pursuant to CWC section 13267, the Copermittees must comply with all the requirements contained in Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-0002 in Attachment E of this Order.

Administrative Record Page No. 025193

O. STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS

1. Each Copermittee must comply with Standard Provisions, Reporting Requirements, and Notifications contained in Attachment B of this Order. This includes 24 hour/5 day reporting requirements for any instance of non-compliance with this Order as described in section 5.e of Attachment B.

2. All plans, reports and subsequent amendments submitted in compliance with this Order must be implemented immediately (or as otherwise specified). All submittals by Copermittees must be adequate to implement the requirements of this Order.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 16, 2009.

David W. Gibson
Executive Officer

Administrative Record Page No. 025194

ATTACHMENT A

BASIN PLAN PROHIBITIONS

California Water Code Section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste or certain types of waste is not permitted. The following discharge prohibitions are applicable to any person, as defined by Section 13050(c) of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the state within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.

2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.

3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by a NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited.

4. Discharges of recycled water to lakes or reservoirs used for municipal water supply or to inland surface water tributaries thereto are prohibited, unless this Regional Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services and the operating agency of the impacted reservoir; and the discharger has an approved fail-safe long-term disposal alternative.

5. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if streamflow provided 100:1 dilution capability.

6. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board.

7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board.

8. Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional Board. [The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water

Administrative Record Page No. 025195

runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities. [§122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].

9. The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.

10. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.

11. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the state is prohibited.

12. The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.

13. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.

14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

15. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.

ATTACHMENT B

STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS

1. STANDARD PROVISIONS – PERMIT COMPLIANCE [40 CFR 122.41]

(a) *Duty to comply* [40 CFR 122.41(a)].

(1) The Copermittee must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(2) The Copermittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the Order has not yet been modified to incorporate the requirement.

(b) *Need to halt or reduce activity not a defense* [40 CFR 122.41(c)]. It shall not be a defense for the Copermittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

(c) *Duty to mitigate* [40 CFR 122.41(d)]. The Copermittee shall take all reasonable steps to minimize or prevent any discharge or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment.

(d) *Proper operation and maintenance* [40 CFR 122.41(e)]. The Copermittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Copermittee to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the Copermittee only when necessary to achieve compliance with the conditions of this Order.

(e) *Property rights* [40 CFR 122.41(g)].

(1) This Order does not convey any property rights of any sort or any exclusive privilege.
(2) The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

(f) *Inspection and entry* [40 CFR 122.41(i)]. The Copermittee shall allow the Regional Water Quality Control Board, San Diego Region (Regional Board), State Water

Resources Control Board (SWRCB), United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the Copermittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
(3) Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
(4) Sample or monitor, at reasonable times, for the purpose of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location.

(g) *Bypass* [40 CFR 122.41(m)]

(1) Definitions:

i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Bypass not exceeding limitations - The Copermittee may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance (g)(3), (g)(4) and (g)(5) below.

(3) Prohibition of Bypass - Bypass is prohibited, and the Regional Board may take enforcement action against a Copermittee for bypass, unless:

i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
iii) The Copermittee submitted notice as required under Standard Provisions – Permit Compliance (g)(3) above.

(4) Notice

i) Anticipated bypass. If the Copermittee knows in advance of the need for a bypass, it shall submit a notice, if possible at least ten days before the date of the bypass.
ii) Unanticipated bypass. The Copermittee shall submit notice of an unanticipated bypass as required in Standard Provisions 5(e) below (24-hour notice).

(h) *Upset* [40 CFR 122.41(n)] Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the reasonable control of the Copermittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(1) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance (h)(2) below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(2) Conditions necessary for a demonstration of upset. A Copermittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

i) An upset occurred and that the Copermittee can identify the cause(s) of the upset;
ii) The permitted facility was at the time being properly operated;
iii) The Copermittee submitted notice of the upset as required in Standard Provisions – Permit Compliance (5)(e)(ii)(B) below (24-hour notice); and
iv) The Copermittee complied with any remedial measures required under Standard Provisions – Permit Compliance 1(c) above.

(3) Burden of Proof. In any enforcement proceeding, the Copermittee seeking to establish the occurrence of an upset has the burden of proof.

2. STANDARD PROVISIONS – PERMIT ACTION

(a) *General* [40 CFR 122.41(f)] This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Copermittee for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition.

(b) *Duty to reapply* [40 CFR 122.41(b)]. If the Copermittee wishes to continue an activity regulated by this Order after the expiration date of this Order, the Copermittee must apply for and obtain new permit.

(c) *Transfers*. This Order is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the Order to change the name of the Copermittee and incorporate such other requirements as may be necessary under the CWA and the CWC.

3. STANDARD PROVISIONS – MONITORING

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. [40 CFR Section 122.41 (j) (1)]

(b) Monitoring results must be conducted according to test procedures under 40 CFR Part 136, or in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [40 CFR Section 122.41(j)(4)][40 CFR Section 122.44(i)(1)(iv)].

4. STANDARD PROVISIONS – RECORDS

(a) Except for records of monitoring information required by this Order related to the Copermittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the Copermittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application, This period may be extended by request of the Regional Water Board Executive Officer at any rime [40 CFR Section 122.41(j)(2)].

(b) *Records of monitoring information* [40 CFR 122.41(j) (3)] shall include:

(1) The date, exact place, and time of sampling or measurements;
(2) The individual(s) who performed the sampling or measurements;
(3) The date(s) analyses were performed;
(4) The individual(s) who performed the analyses;
(5) The analytical techniques or methods used; and
(6) The results of such analyses.

(c) *Claims of confidentiality* [40 CFR Section 122.7(b)] of the following information will be denied:

(1) The name and address of any permit applicant or Copermittee; and
(2) Permit applications and attachments, permits and effluent data.

5. STANDARD PROVISIONS – REPORTING

(a) *Duty to provide information* [40 CFR 122.41(h)]. The Copermittee shall furnish to the Regional Board, SWRCB, or USEPA within a reasonable time, any information which

the Regional Board, SWRCB, or USPEA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Copermittee shall also furnish to the Regional Board, SWRCB, or USEPA, copies of records required to be kept by this Order.

(b) *Signatory and Certification Requirements* [40 CFR 122.41(k)]

(1) All applications, reports, or information submitted to the Regional Board, SWRCB, or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting 5(b)ii), 5(b)iii), 5(b)iv), and 5(b) (see 40 CFR 122.22)

(2) *Applications* [40 CFR 122.22(a)(3)] All permit applications shall be signed by either a principal executive officer or ranking elected official.

(3) *Reports* [40 CFR 122.22(b)]. All reports required by this Order, and other information requested by the Regional Board, SWRCB, or USEPA shall be signed by a person described in Standard Provisions – Reporting 5(b)(2) above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i) The authorization is made in writing by a person described in Standard Provisions-Reporting 5(b)(2) above;

ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and,

iii) The written authorization is submitted to the Regional Water Board and State Water Board.

(4) *Changes to authorization* [40 CFR Section 122.22(c)] If an authorization under Standard Provisions – Reporting 5(b)(3)of this reporting requirement is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting 5(b)(3) above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications to be signed by an authorized representative.

(5) *Certification* [40 CFR Section 122.22(d)] Any person signing a document under Standard Provisions – Reporting 5(b)(2), or 5(b)(3) above shall make the following certification:

”I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(c) *Monitoring reports*. [40 CFR 122.41(l)(4)]

(1) Monitoring results shall be reported at the intervals specified in the Receiving Waters and Runoff Monitoring and Reporting Program No. R9-2009-0002.

(2) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Board or SWRCB for reporting results of mentoring of sludge use or disposal practices.

(3) If the Copermittee monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Board.

(4) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.

(d) *Compliance schedules*. [40 CFR Section 122.41(l)(5)] Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order shall be submitted no later than 14 days following each schedule date.

(e) *Twenty-four hour reporting* [40 CFR Section 122.41(l)(6)]

(1) The Copermittee shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Copermittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Copermittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information, which must be reported within 24 hours under this paragraph:

i) Any unanticipated bypass that exceeds any effluent limitation in the Order (See 40 CFR 122.41(g)).
ii) Any upset which exceeds any effluent limitation in this Order.

(3) The Regional Board may waive the above-required written report under this

provision on a case-by-case basis if the oral report has been received within 24 hours.

(f) *Planned changes*. [40 CFR Section 122.41(l)(1)] The Copermittee shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants, which are not subject to effluent limitations in this Order.

(3) The alteration or addition results in a significant change in the Copermittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing Order, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

(g) *Anticipated noncompliance*. [40 CFR Section 122.41(l)(7)] The Copermittee shall give advance notice to the Regional Board or SWRCB of any planned changes in the permitted facility or activity, which may result in noncompliance with Order requirements.

(h) *Other noncompliance* [40 CFR Section 122.41(l) 7)] The Copermittee shall report all instances of noncompliance not reported under Standard Provisions 5(c), 5(d), and 5(e) above, at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting 5(e) above.

(i) *Other information* [40 CFR Section 122.41(l)(8)] When the Copermittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Board, SWRCB, or USEPA, the Copermittee shall promptly submit such facts or information.

6. STANDARD PROVISIONS – ENFORCEMENT

(a) The Regional Board is authorized to enforce the terms of this permit under several provisions of the CWC, including, but not limited to, Sections 13385, 13386, and 13387.

7. ADDITIONAL STANDARD PROVISIONS

(a) *Municipal separate storm sewer systems* [40 CFR 122.42(c)]. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the

permit for such system. The report shall include:

(1) The status of implementing the components of the storm water management program that are established as permit conditions;

(2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii); and

(3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and 40 CFR 122.26(d)(2)(v);

(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

(5) Annual expenditures and budget for year following each annual report;

(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and

(7) Identification of water quality improvements or degradation.

(b) *Storm water discharges* [40 CFR 122.42(d)]. The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

(c) *Other Effluent Limitations and Standards* [40 CFR 122.44(b)(1)]. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Regional Board may institute proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.

(d) *Discharge is a privilege* [CWC section 13263(g)]. No discharge of waste into the waters of the State, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the State are privileges, not rights.

(e) *Review and revision of Order* [CWC section 13263(e)]. Upon application by any affected person, or on its own motion, the Regional Board may review and revise this permit.

(f) *Termination or modification of Order* [CWC section13381]. This permit may be terminated or modified for causes, including, but not limited to, all of the following:

(1) Violation of any condition contained in this Order.
(2) Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts.
(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(g) *Transfers*. When this Order is transferred to a new owner or operator, such requirements as may be necessary under the CWC may be incorporated into this Order.

(h) *Conditions not stayed*. The filing of a request by the Copermittee for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

(i) *Availability*. A copy of this Order shall be kept at a readily accessible location and shall be available to on-site personnel at all times.

(j) *Duty to minimize or correct adverse impacts*. The Copermittees shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

(k) *Interim Effluent Limitations.* The Copermittee shall comply with any interim effluent limitations as established by addendum, enforcement action, or revised waste discharge requirements which have been, or may be, adopted by this Regional Board.

(l) *Responsibilities, liabilities, legal action, penalties* [CWC sections 13385 and 13387]. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.

Nothing in this Order shall be construed to protect the Copermittee from its liabilities under federal, state, or local laws.

Except as provided for in 40CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Copermittee from civil or criminal penalties for noncompliance.

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties to which the Copermittee is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

(m) *Noncompliance*. Any noncompliance with this Order constitutes violation of the CWC and is grounds for denial of an application for modification of the Order (also see 40 CFR 122.41(a).

(n) *Director*. For purposes of this Order, the term “Director” used in parts of 40 CFR

incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term "Regional Board" used elsewhere in this Order, except that in 40 CFR 122.41(h) and (l), "Director" shall mean "Regional Board, SWRCB, and USEPA."

(o) The Regional Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The Regional Board or SWRCB may in the future, upon prior notice to the Copermittee(s), issue an NPDES permit for any non-storm water discharge (or class of non-storm water discharges) to a MS4. Copermittees may prohibit any non-storm water discharge (or class of non-storm water discharges) to a MS4 that is authorized under such separate NPDES permits.

(p) *Effective date*. This Order shall become effective on the date of its adoption provided the USEPA has no objection. If the USEPA objects to its issuance, this Order shall not become effective until such objection is withdrawn. This Order supersedes Order No. 2001-01 upon the effective date of this Order.

(q) *Expiration*. This Order expires five years after adoption.

(r) *Continuation of expired order* [23 CCR 2235.4]. After this Order expires, the terms and conditions of this Order are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits (40 CFR 122.6) are complied with.

(s) *Applications*. Any application submitted by a Copermittee for reissuance or modification of this Order shall satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the CWC and the California Code of Regulations.

(t) *Confidentiality*. Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this Order will be considered confidential, and all such information and documents shall be available for review by the public at the Regional Board office.

(u) *Severability*. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

(v) R*eport submittal*. The Copermittee shall submit reports and provide notifications as required by this Order to the following:

NORTHERN WATERSHED UNIT
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 SKY PARK COURT, SUITE 100
SAN DIEGO CA 92123-4340
Telephone: (858) 467-2952 Fax: (858) 571-6972

Administrative Record Page No. 025206

EUGENE BROMLEY
US ENVIRONMENTAL PROTECTION AGENCY
REGION IX
PERMITS ISSUANCE SECTION (W-5-1)
75 HAWTHORNE STREET
SAN FRANCISCO CA 94105

Unless otherwise directed, the Copermittee shall submit one hard copy for the official record and one electronic copy of each report required under this Order to the Regional Board and one electronic copy to the EPA.

Administrative Record Page No. 025207

ATTACHMENT C

ACRONYMS AND ABBREVIATIONS

ADT	Average Daily Traffic
AMAL	Average Monthly Action Level
ASBS	Area of Special Biological Significance
AST	Active Sediment Treatment
BMP	Best Management Practice
Basin Plan	Water Quality Control Plan for the San Diego Basin
BU	Beneficial Use
CASQA	California Stormwater Quality Association
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
CWC	California Water Code
CZARA	Coastal Zone Act Reauthorization Amendments of 1990
DAMP	Drainage Area Management Plan
DNQ	Detected, but not Quantified
EIA	Effective Impervious Area
ESAs	Environmentally Sensitive Areas
GIS	Geographic Information System
HMP	Hydromodification Management Plan
IBI	Index of Biotic Integrity
JRMP	Jurisdictional Runoff Management Plan
LID	Low Impact Development
MDAL	Maximum Daily Action Level
MEP	Maximum Extent Practicable
ML	Minimum Level
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
OCVCD	Orange County Vector Control District
Copermittees	County of Orange, the 11 incorporated cities within the County of Orange in the San Diego Region, and the Orange County Flood Control District
Regional Board	California Regional Water Quality Control Board, San Diego Region
RGOs	Retail Gasoline Outlets
ROWD	Orange County Copermittees' Report of Waste Discharge (application for NPDES reissuance)
RWLs	Receiving Water Limitations
SAL	Storm Water Action Level
SIC	Standard Industrial Classification Code
SSMP	Standard Urban Storm Water Mitigation Plan
State Board	State Water Resources Control Board
SWQPA	State Water Quality Protected Area
TMDL	Total Maximum Daily Load

Administrative Record Page No. 025208

USEPA	United States Environmental Protection Agency
WLA	Waste Load Allocation
WQMP	Water Quality Management Plan
WRMP	Watershed Runoff Management Plan

DEFINITIONS

Active Sediment Treatment - Using mechanical or chemical means to flocculate and remove suspended sediment from runoff from construction sites prior to discharge.

Anthropogenic Litter – Trash generated from human activities, not including sediment.

Average Monthly Action Level – the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Basin Plan – Water Quality Control Plan, San Diego Basin, Region 9, and amendments, developed by the Regional Board.

Beneficial Uses - The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. "Beneficial Uses" of the waters of the State that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. [California Water Code Section 13050(f)].

Best Management Practices (BMPs) - Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of municipal storm water permits, BMPs are typically used in place of numeric effluent limits.

Bioassessment - The use of biological community information to evaluate the biological integrity of a water body and its watershed. With respect to aquatic ecosystems, bioassessment is the collection and analysis of samples of the benthic macroinvertebrate community together with physical/habitat quality measurements associated with the sampling site and the watershed to evaluate the biological condition (i.e. biological integrity) of a water body.

Biocriteria - Under the CWA, numerical values or narrative expressions that define a desired biological condition for a water body that are legally enforceable. The USEPA defines biocriteria as: "numerical values or narrative expressions that describe the

reference biological integrity of aquatic communities inhabiting waters of a given designated aquatic life use… (that)…describe the characteristics of water body segments least impaired by human activities."

Biofiltration - refers to practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

Biological Integrity - Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: "A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region." Also referred to as ecosystem health.

Clean Water Act Section 402(p) [33 USC 1342(p)] - The federal statute requiring municipal and industrial dischargers to obtain NPDES permits for their discharges of storm water.

Clean Water Act Section 303(d) Water Body - An impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the CWA. The discharge of runoff to these water bodies by the Copermittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

Construction Site – Any project, including projects requiring coverage under the General Construction Permit, that involves soil disturbing activities including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation.

Contamination - As defined in the Porter-Cologne Water Quality Control Act, contamination is "an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. 'Contamination' includes any equivalent effect resulting from the disposal of waste whether or not waters of the State are affected."

Critical Channel Flow (Qc) – The channel flow that produces the critical shear stress that initiates bed movement or that erodes the toe of channel banks. When measuring Qc, it should be based on the weakest boundary material – either bed or bank.

CWA – Federal Clean Water Act

CWC – California Water Code

Daily Discharge – Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day or any 24 hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g. concentration.)

The Daily Discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day, or other 24 hour period other than a day), or by the arithmetic mean of analytical results from one or more grab samples taken over the course of a day.

Detected, but not Quantified – those sample results less than the reporting level, but greater than or equal to the laboratory's Method of Detection Limit (MDL.)

Development Projects - New development or redevelopment with land disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces, public agency projects, and land subdivision.

Dilution Credit – the amount of dilution granted to a discharger in the calculation of a WQBEL, based on the allowance of a specific mixing zone. It is calculated from the dilution ratio, or determined through conducting of a mixing zone study, or modeling of the discharge and receiving water.

Dry Season – May 1 through September 30 of each year.

Dry Weather – weather is considered dry if the preceding 72 hours has been without precipitation.

Effectiveness Assessment Outcome Level 1 - Compliance with Activity-based Permit Requirements – Level 1 outcomes are those directly related to the implementation of specific activities prescribed by this Order or established pursuant to it.

Effectiveness Assessment Outcome Level 2 - Changes in Attitudes, Knowledge, and Awareness – Level 2 outcomes are measured as increases in knowledge and awareness among target audiences such as residents, businesses, and municipal employees.

Effectiveness Assessment Outcome Level 3 - Behavioral Change and BMP Implementation – Level 3 outcomes measure the effectiveness of activities in affecting behavioral change and BMP implementation.

Effectiveness Assessment Outcome Level 4 - Load Reductions – Level 4 outcomes measure load reductions which quantify changes in the amounts of pollutants associated with specific sources before and after a BMP or other control measure is employed.

Effectiveness Assessment Outcome Level 5 - Changes in Runoff and Discharge Quality – Level 5 outcomes are measured as changes in one or more specific constituents or stressors in discharges into or from MS4s.

Effectiveness Assessment Outcome Level 6 - Changes in Receiving Water Quality – Level 6 outcomes measure changes to receiving water quality resulting from discharges into and from MS4s, and may be expressed through a variety of means such as compliance with water quality objectives or other regulatory benchmarks, protection of biological integrity, or beneficial use attainment.

Enclosed Bays – Enclosed bays are indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost bay works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays do not include inland surface waters or ocean waters.

Erosion – When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

Environmentally Sensitive Areas (ESAs) - Areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); State Water Quality Protected Areas; water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Natural Communities Conservation Program within the Cities and County of Orange; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees.

Estuaries – waters, including coastal lagoons, located at the mouth of streams that serve as areas of mixing fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and ocean water. Estuaries do not include inland surface waters or ocean waters.

Feasibility Analysis – Detailed description of the selection process for the treatment control BMPs for a Priority Development Project, including justification of why one BMP is selected over another. For a Priority Development Project where a treatment control BMP with a low removal efficiency ranking (as identified by the Model SUSMP) is proposed, the analysis shall include a detailed and adequate justification exhibiting the reasons implementation of a treatment control BMP with a higher removal efficiency is infeasible for the Priority Development Project or portion of the Priority Development Project.

Flow Duration – The long-term period of time that flows occur above a threshold that causes significant sediment transport and may cause excessive erosion damage to creeks and streams (not a single storm event duration). The simplest way to visualize this is to consider a histogram of pre- and post-project flows using long-term records of hourly data. To maintain pre-project flow duration means that the total number of hours (counts) within each range of flows in a flow-duration histogram cannot increase between the pre- and post-project condition. Flow duration within the range of geomorphologically significant flows is important for managing erosion.

GIS – Geographic Information System

Grading - The cutting and/or filling of the land surface to a desired slope or elevation.

Hazardous Material – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA in 40 CFR 116 to be reported if a designated quantity of the material is spilled into the waters of the U.S. or emitted into the environment.

Hazardous Waste - Hazardous waste is defined as "any waste which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code" [CCR Title 22, Division 4.5, Chapter 11, Article 1].

Household Hazardous Waste – Paints, cleaning products, and other wastes generated during home improvement or maintenance activities.

Hydromodification – The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, installation of dams and water impoundments, and excessive streambank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

Illicit Connection – Any connection to the MS4 that conveys an illicit discharge.

Illicit Discharge - Any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities [40 CFR 122.26(b)(2)].

Implementation Assessment – Assessment conducted to determine the effectiveness of Copermittee programs and activities in achieving measurable targeted outcomes, and in determining whether priority sources of water quality problems are being effectively addressed.

Inactive Slopes – Slopes on which no grading or other soil disturbing activities are conducted for 10 or more days.

Inland Surface Waters – all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

Integrated Assessment – Assessment to be conducted to evaluate whether program implementation is properly targeted to and resulting in the protection and improvement of water quality.

Jurisdictional Runoff Management Plan (JRMP) – A written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to comply with this Order and ensure that storm water pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

Low Impact Development (LID) – A storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated

with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

Maximum Daily Action Level (MDAL) – is the highest allowable daily discharge of a pollutant, over a calendar day (or 24 hour period). For pollutants with action levels expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with action levels expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) for storm water that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their runoff management programs. Their total collective and individual activities conducted pursuant to the runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP.

In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

> "*To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:*
>
> *a. Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
> *b. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
> *c. Public Acceptance: Does the BMP have public support?*
> *d. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
> *e. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*
>
> *The final determination regarding whether a municipality has reduced pollutants*

to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented."

Minimum Level – the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method sample weights, volumes and processing steps have been followed.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.26.

National Pollutant Discharge Elimination System (NPDES) - The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA.

NOI – Notice of Intent

Non-Storm Water - All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than storm water). Non-storm water includes illicit discharges, non-prohibited discharges, and NPDES permitted discharges.

Nuisance - As defined in the Porter-Cologne Water Quality Control Act a nuisance is "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as

to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes."

Ocean Waters – the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Board's California Ocean Plan.

Order – Order No. R9-2009-0002 (NPDES No. CAS0108740)

Person - A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof [40 CFR 122.2].

Point Source - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant - Any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

Pollution - As defined in the Porter-Cologne Water Quality Control Act: "the alteration of the quality of the waters of the State by waste, to a degree that unreasonably affects the either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses." Pollution may include contamination.

Pollutants of Concern – Pollutants for which water bodies are listed as impaired under CWA section 303(d), pollutants associated with the land use type of a development, and/or pollutants commonly associated with runoff. Pollutants commonly associated with runoff include total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste, and anthropogenic litter).

Pollution Prevention - Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control BMPs, treatment control BMPs, or disposal.

Post-Construction BMPs - A subset of BMPs including structural and non-structural controls which detain, retain, filter, or educate to prevent the release of pollutants to surface waters during the final functional life of developments.

Administrative Record Page No. 025216

Pre-Project or Pre-Development Runoff Conditions (Discharge Rates, Durations, Etc.) – Runoff conditions that exist onsite immediately before the planned development activities occur. This definition is not intended to be interpreted as that period before any human-induced land activities occurred. This definition pertains to redevelopment as well as initial development.

Principal Copermittee – County of Orange

Priority Development Projects - New development and redevelopment project categories listed in Section F.1.d(2) of Order No. R9-2009-0002.

Receiving Waters – Waters of the United States.

Receiving Water Limitations (RWLs) - Waste discharge requirements issued by the Regional Board typically include both: (1) "Effluent Limitations" (or "Discharge Limitations") that specify the technology-based or water-quality-based effluent limitations; and (2) "Receiving Water Limitations" that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the "Receiving Water Limitations" provision is the provision used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Redevelopment - The creation, addition, and or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing existing roadways; new sidewalk construction, pedestrian ramps, or bikelane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Retain – to keep or hold in a particular place, condition, or position without discharge to surface waters.

Runoff - All flows in a storm water conveyance system that consists of the following components: (1) storm water (wet weather flows) and (2) non-storm water including dry weather flows.

Sediment - Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

Shared Treatment Control BMP - BMPs used by multiple developments to infiltrate, filter, or treat the required volume or flow prior to discharge to a receiving water. This could include, for example, a treatment BMP at the end of an enclosed storm drain that collects runoff from several commercial developments.

Source Control BMP – Land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

State Water Quality Protection Area – A nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process. Areas of special biological significance are a subset of State Water Quality Protection Areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the California Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board.

Storm Water – Per 40 CFR 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage. Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.

Standard Storm Water Mitigation Plan (SSMP) – A plan developed to mitigate the impacts of runoff from Priority Development Projects.

Third Party Inspectors - Industrial and commercial facility inspectors who are not contracted or employed by a regulatory agency or group of regulatory agencies, such as the Regional Board or Copermittees. The third party inspector is not a regular facility employee self-inspecting their own facility. The third party inspector could be a contractor or consultant employed by a facility or group of businesses to conduct inspections.

Total Maximum Daily Load (TMDL) - The maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

Toxicity - Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). The water quality objectives for toxicity provided in the Water Quality Control Plan, San Diego Basin, Region 9, (Basin Plan), state in part…"All waters shall be free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life….The survival of aquatic life in surface waters subjected to a waste discharge or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge".

Treatment Control BMP – Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

Waste - As defined in CWC Section 13050(d), "waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal."

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste, which cannot be discharged directly or indirectly to water of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

Water Quality Assessment – Assessment conducted to evaluate the condition of non-storm water and storm water discharges, and the water bodies which receive these discharges.

Water Quality Objective - Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water. [California Water Code Section 13050 (h)]. California's water quality objectives are established by the State and Regional Water Boards in the Water Quality Control Plans. Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In other words, a water quality objective is the maximum concentration of a pollutant that can exist in a receiving water and still generally ensure that the beneficial uses of the receiving water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne's definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

Water Quality Standards - The beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) of water and the water quality objectives necessary to protect those uses.

Waters of the State - Any water, surface or underground, including saline waters within the boundaries of the State [CWC section 13050 (e)]. The definition of the Waters of the State is broader than that for the Waters of the United States in that all water in the State is considered to be a Waters of the State regardless of circumstances or condition. Under this definition, a MS4 is always considered to be a Waters of the State.

Waters of the United States - As defined in the 40 CFR 122.2, the Waters of the U.S. are defined as: "(a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including

Administrative Record Page No. 025219

intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition: (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.”

Watershed - That geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

Watershed Runoff Management Plan (WRMP) – A written description of the specific watershed runoff management measures and programs that each watershed group of Copermittees will implement to comply with this Order and ensure that storm water pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

WDRs – Waste Discharge Requirements

Wet Season – October 1 through April 30 of each year.

Administrative Record Page No. 025220

ATTACHMENT D

SCHEDULED SUBMITTALS SUMMARY

Submittal	Permit Section	Completion Date	Frequency
Prohibitions on dry-weather discharges listed in Section B.2	B.2	365 days after adoption and in annual reports	Annual
Submit Certified Statement of Adequate Legal Authority	E.2	365 days after adoption of the Order	One time
Flood Control Structure BMP Inventory and Evaluation	F.3.a.(4)	2nd year JRMP Annual Report	One time
Fiscal Analysis	H.3	With annual JRMP report	Annual
Updated Jurisdictional Runoff Management Plans	K.1.a	365 days after adoption of the Order	One time
Updated Watershed Workplans	K.1.b	365 days after adoption of the Order	One time
Updated model SSMP	F.1.d, K.2.a	Two years after adoption of the Order	One time
Updated local SSMPs and amended ordinances and certified statement of adequate legal authority to implement LID and hydromodification requirements	E.2, F.1.d, K.2.a	180 days after RB determination that Model SSMP is in compliance	One time
Identify and remove barriers to LID implementation	F.1.d.(4)(a)(v)	2nd year JRMP Annual Report	One time
Report of Waste Discharge	K.2.b	At least 210 days prior to expiration of this Order	One time
Submit to Principal Copermittee(s) individual JRMP Annual Reports	K.3.a.(1)	Prior to September 30, 2011 and annually thereafter (Principal Copermittee specifies date of submittal)	Annual
Principal Copermittee submits JRMP Annual Reports to Regional Board	K.3.a.(2)	September 30, 2011 and annually thereafter	Annual
Principal Copermittee submits Notification of Principal Copermittee	M	180 days after adoption of the Order	One Time
Principal Copermittee submits description of Receiving Waters Monitoring Program	Monitoring and Reporting Program (M&R Program), III.A.1	September 1, 2010 and annually thereafter	Annual
Receiving Waters and Runoff Monitoring Annual Reports	M&R Program, III.A.2	October 1, 2011 and annually thereafter	Annual
Principal Copermittee submits interim Receiving Waters Monitoring Program Annual Report	M&R Program, III.B	January 31, 2011	One Time
Hydromodification Management Plan	F.1.h.4	Draft within 2 years of adoption of the Order	One Time for Draft
Trash and Litter Impairment Special Study	M&R Program II.D.5	Draft Monitoring Protocol and Locations within 365 days of Order adoption	One Time

Jurisdictional Runoff Management Program Annual Report Checklist

In the JRMP Annual Report each Copermittee shall provide an Annual Report Checklist. The Annual Report Checklist must be no longer than 2 pages, be current as of the 1st day of the rainy season of that year, and include a signed certification statement. The Annual Report Summary Checklist must provide the following information:

Order Requirements
Were All Requirements of this Order Met?

Construction
Number of Active Sites
Number of Inactive Sites
Number of Sites Inspected
Number of Inspections
Number of Violations
Number of Construction Enforcement Actions Taken

New Development
Number of Development Plan Reviews
Number of Grading Permits Issued
Number of Projects Exempted from Interim/Final Hydromodification Requirements

Post Construction Development
Number of Priority Development Projects
Number of SUSMP Required Post-Construction BMP Inspections
Number of SUSMP Required Post-Construction BMP Violations
Number of SUSMP Required Post-Construction BMP Enforcement Actions Taken

Illicit Discharges and Connections
Number of IC/ID Inspections
Number of IC/ID Detections by Staff
Number of IC/ID Detections from the Public
Number of IC/ID Eliminations
Number of IC/ID Violations
Number of IC/ID Enforcement Actions Taken

MS4 Maintenance
Number of Inspections Conducted
Amount of Waste Removed
Total Miles of MS4 Inspected

Municipal/Commercial/Industrial
Number of Facilities
Number of Inspections Conducted
Number of Facilities Inspected
Number of Violations
Number of Enforcement Actions Taken

Attachment E

RECEIVING WATERS AND MS4 DISCHARGE MONITORING AND REPORTING PROGRAM NO. R9-2009-0002

I. PURPOSE 2
II. MONITORING PROGRAM 2
A. Receiving Waters Monitoring Program 2
1. Mass Loading Station (MLS) Monitoring 3
2. Urban Stream Bioassessment (BA) Monitoring 6
3. Follow-up Analysis and Actions 8
4. Ambient Coastal Receiving Waters Monitoring (ACRW) 9
5. Regional Monitoring Programs 10
B. Wet Weather MS4 Discharge Monitoring 11
C. Dry Weather Non-Storm Water Effluent Limitations 12
D. Special Studies 15
E. Monitoring Provisions 17
III. REPORTING PROGRAM 19
A. Monitoring Reporting 19
B. Interim Reporting Requirements 23

Administrative Record Page No. 025223

I. PURPOSE

A. This Receiving Waters and MS4 Discharge Monitoring and Reporting Program is intended to meet the following goals:
   1. Assess compliance with Order No. R9-2009-002;
   2. Measure and improve the effectiveness of the Copermittees' runoff management programs;
   3. Assess the chemical, physical, and biological impacts to receiving waters resulting from MS4 discharges;
   4. Characterize storm water discharges;
   5. Identify sources of specific pollutants;
   6. Prioritize drainage and sub-drainage areas that need management actions;
   7. Detect and eliminate illicit discharges and illicit connections to the MS4; and
   8. Assess the overall health of receiving waters.
   9. Provide information to implement required BMP improvements

B. In addition, this Receiving Waters and MS4 Discharges Monitoring and Reporting Program is designed to answer the following core management questions1:
   1. Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
   2. What is the extent and magnitude of the current or potential receiving water problems?
   3. What is the relative MS4 discharge contribution to the receiving water problem(s)?
   4. What are the sources of MS4 discharge that contribute to receiving water problem(s)?
   5. Are conditions in receiving waters getting better or worse?

II. MONITORING PROGRAM

A. Receiving Waters Monitoring Program

Each Copermittee must collaborate with the other Copermittees to develop, conduct, and report on a year-round watershed based Receiving Waters Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting must be conducted

[1] Core management questions from "*Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California: A report from the Stormwater Monitoring Coalition's Model Monitoring Technical Committee.*" Technical Report No. 419. August 2004.

Administrative Record Page No. 025224

on a watershed basis for each of the watershed management areas. The monitoring program must be designed to meet the goals and answer the questions listed in section I above. The monitoring program must include the following components:

1. MASS LOADING STATION (MLS) MONITORING

a. Locations: The following existing mass loading stations must continue to be monitored: Laguna Canyon, Aliso Creek, San Juan Creek, Trabuco Creek, Prima Deshecha Channel, and Segunda Deshecha Channel.

b. Frequency: Each mass loading station to be monitored in a given year must be monitored twice during wet weather events and twice during dry weather flow conditions.

c. Timing: Each mass loading station must be monitored for the first wet weather event of the season which meets the USEPA's criteria as described in 40 CFR 122.21(g)(7). Monitoring of the second wet weather event must be conducted after February 1. Dry weather mass loading monitoring events must be sampled at least three months apart between May and October. If flows are not evident in September or October for the second event, then sampling must be conducted during non-rain events in the wet weather season.

d. Protocols: Protocols for mass loading sampling and analysis must be SWAMP comparable. At a minimum, analytical methods, target reporting limits, and data reporting formats should be SWAMP comparable. If the mass loading sampling and analysis are determined to be impracticable with the SWAMP standards, the Copermittees must provide explanation and discussion to this effect in the Receiving Waters and MS4 Discharge Monitoring Annual Report. Wet weather samples may be time-weighted composites, collected for the duration of the entire runoff event, where practical, consistent with methods used by the Copermittees during for the Receiving Waters Monitoring Program conducted for Regional Board Order No. R9-2002-01. Where such monitoring is not practical, such as for large watersheds with significant groundwater recharge flows, composites must be collected at a minimum during the first 3 hours of flow. Dry weather event sampling may be time-weighted composites composed of 24 discrete hourly samples, whereby the mass loads of pollutants are calculated as the product of the composite sample concentration and the total volume of water discharged past the monitoring point during the time of

sample collection.

(1) Automatic samplers must be used to collect samples from mass loading stations.
(2) Grab samples must be analyzed for temperature, pH, specific conductance, biochemical oxygen demand, oil and grease, total coliform, fecal coliform, enterococcus and for total petroleum hydrocarbons whenever a sheen is observed.

e. Copermittees must measure or estimate flow rates and volumes for each mass loading station sampling event in order to determine mass loadings of pollutants. Data from nearby USGS gauging stations may be utilized, or flow rates may be estimated in accordance with the USEPA Storm Water Sampling Guidance Document (EPA-833-B-92-001), Section 3.2.1.

f. In the event that the required number of events is not sampled during one monitoring year at any given station, the Copermittees must submit, with the subsequent Receiving Waters Monitoring Annual Report, a written explanation for a lack of sampling data, including streamflow data from the nearest USGS gauging station.

g. The following constituents must be analyzed for each monitoring event at each station:

Table 1. Analytical Testing for Mass Loading, Urban Stream Bioassessment (excluding bacteriological), and Ambient Coastal Receiving Waters Stations

Conventionals, Nutrients, Hydrocarbons	**Pesticides**	**Metals (Total and Dissolved)**	**Bacteriological**
• Total Dissolved Solids • Total Suspended Solids • Turbidity • Total Hardness • pH • Specific Conductance • Temperature • Dissolved Oxygen • Total Phosphorus • Dissolved Phosphorus • Nitrite° • Nitrate° • Total Kjeldahl Nitrogen • Ammonia	Diazinon Chlorpyrifos *Malathion* *Carbamates** *Pyrethroids**	Arsenic Cadmium Chromium Copper Lead Nickel Selenium Zinc	Total Coliform Fecal Coliform Enterococcus

• Biological Oxygen Demand, 5-day • Chemical Oxygen Demand • Total Organic Carbon • Dissolved Organic Carbon • Methylene Blue Active Substances • Oil and Grease			
° Nitrate and nitrate may be combined and reported as nitrate + nitrite. * Carbamate and Pyrethroid pesticides must initially be monitored in Prima Deshecha and Segunda Deshecha watersheds. If carbamate and/or pyrethroid pesticides are found to correlate with observed acute or chronic toxicity, then that pesticide must be added to all stations displaying toxicity.			

h. Toxicity testing must be conducted for each monitoring event at each station according to the following Table 2:

Table 2. Toxicity Testing for Mass Loading, Urban Stream Bioassessment, and Ambient Coastal Receiving Waters Stations

Program Component	***Dry Weather Flows***		***Storm Water Flows***	
	Freshwater Organisms	**Estuarine & Marine Organisms**	**Freshwater Organisms**	**Estuarine & Marine Organisms**
Mass Loading	2 chronic 2 acute	1 chronic**	2 acute	2 chronic 1 acute
Urban Stream Bioassessment	2 chronic* 2 acute*	n/a	n/a	n/a
Ambient Coastal Receiving Waters	n/a	2 chronic 1 acute	n/a	2 chronic 1 acute
Sediment Toxicity Special Study	1 chronic 1 acute 1	n/a	n/a	n/a

Table Notes
* Urban Stream Bioassessment on Aliso Creek must also include use of *Pimephales promelas* (fathead minnow) for chronic and acute toxicity testing.
** Dry weather toxicity monitoring at a mass loading station may be omitted if either (a) the channel flows are diverted year-round in dry weather conditions to the sanitary sewer for treatment; or (b) dry weather toxicity with marine species is occurring at an Ambient Coastal Waters Receiving station where that channel reaches the Pacific Ocean.

Species Notes:
1. Freshwater acute toxicity testing must include *Hyalella azteca*.

2. Acute toxicity for may be determined during the course of chronic toxicity monitoring per U.S. EPA protocols. 3. *Americamysis bahia* may be used as a marine test organism if *Holmesimysis costata* cannot reasonably be obtained. The use of, and justification for, of *A. bahia* must be clearly reported in each Monitoring Report.

i. The presence of acute toxicity must be determined in accordance with USEPA protocol (EPA-821-R-02-012). The presence of chronic freshwater toxicity must be determined in accordance with USEPA protocol (EPA-821-R-02-013). The presence of chronic marine toxicity must be determined in accordance with USEPA guidance EPA 600/R95/136, except for chronic mysid tests that must be conducted in accordance with USEPA protocol EPA-821-R-02-014.

2. Urban Stream Bioassessment (BA) Monitoring

Copermittees must conduct Urban Stream Bioassessment Monitoring using a triad of indicators to assess the condition of biological communities in freshwater, urban receiving waters.

a. Locations: At a minimum, the program shall consist of station identification, sampling, monitoring, and analysis of data for six bioassessment stations in order to determine the biological and physical integrity of urban streams within the County of Orange. At least one urban bioassessment station shall be located within each watershed management area. In addition to the urban stream bioassessment stations, three reference bioassessment stations shall be identified, sampled, monitored, and analyzed. Locations of reference stations must be identified according to protocols outlined in "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams," by Ode, et al. 2005.[2]

b. Frequency: Bioassessment stations which have year round flow conditions must be monitored in May or June (to represent the influence of wet weather on the communities) or September or October (to represent the influence of dry weather flows on the communities). Copermittees shall determine when the annual sampling for stations with year round flow will occur in accordance with the purposes of sampling, as outlined in Secion I of

[2] Ode, et al. 2005. "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams." Environmental Management. Vol. 35, No. 1, pp. 1-13.

Attachment E. Those stations that do not have year round flow shall continue to be monitored twice per year. The timing of monitoring of bioassessment stations must coincide with dry weather monitoring of mass loading stations and Inland Aquatic Habitat stations.

c. Parameters / Methods: The triad of indicators for urban stream bioassessment monitoring must include bioassessment, aquatic chemistry, and aqueous toxicity.

(1) Aquatic chemistry and aqueous toxicity must be conducted using the same parameters and methods as the mass loading station monitoring, with the addition of pyrethroid pesticides.

(2) Bioassessment analysis procedures must include calculation of the Index of Biotic Integrity (IBI) for benthic macroinvertebrates for all bioassessment stations, as outlined in "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams," by Ode, et al. 2005.

(3) Monitoring of bioassessment stations must be conducted according to bioassessment procedures developed by the Surface Water Ambient Monitoring Program (SWAMP), as amended. [3]

(4) Monitoring of bioassessment stations must incorporate assessment of algae in addition to macroinvertebrates, using the USEPA's 1999 Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers[4] and SWAMP's Incorporating bioassessment using freshwater algae into California's Surface Water Ambient Monitoring Program (SWAMP)[5]. Assessment of freshwater algae must include algal taxonomic composition (diatoms and soft algae) and algal biomass. Future bioassessment shall incorporate algal IBI scores, when developed.

---

[3] Ode, P.R.. 2007. Standard operating procedures for collecting macroinvertebrate samples and associated physical and chemical data for ambient bioassessments in California. California State Water Resources Control Board Surface Water Ambient Monitoring Program (SWAMP) Bioassessment SOP 001.

[4] USEPA, 1999. *Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers*. EPA-841-B-99-002.

[5] Fetscher, E. A., and K. McLaughlin. 2008. Incorporating bioassessment using freshwater algae into California's Surface Water Ambient Monitoring Program (SWAMP). Southern California Coastal Water Research Project. Costa Mesa, CA

d. A qualified professional environmental laboratory must perform all sampling, laboratory, quality assurance, and analytical procedures.

3. FOLLOW-UP ANALYSIS AND ACTIONS

When results from the required monitoring indicate MS4 discharge induced degradation at a mass loading station, bioassessment, or dry weather discharge station, Copermittees within the watershed must evaluate the extent and causes of MS4 discharge pollution in receiving waters and prioritize and implement management actions to eliminate or reduce sources. Toxicity Identification Evaluations (TIEs) must be conducted to determine the cause of toxicity as outlined in Table 3 below. Other follow-up activities, which must be conducted by the Copermittees, are also identified in Table 3. Once the cause of toxicity has been identified by a TIE, the Copermittees must perform source identification projects as needed and implement the measures necessary to reduce or eliminate the pollutant discharges and abate the sources causing the toxicity.

Table 3. Triad Approach to Determining Follow-Up Actions[6]

	Chemistry	Toxicity	Benthic Alteration	Example Conclusions	Possible Actions or Decisions
1.	Exceedance of water quality objectives	Evidence of toxicity	Indications of alteration	Strong evidence of pollution-induced degradation	Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority
2.	No persistent exceedances of water quality objectives	No evidence of toxicity	No indications of alteration	No evidence of current pollution-induced degradation Potentially harmful pollutants not yet concentrated enough to cause visible impact	No immediate action necessary Conduct periodic broad scans for new and/or potentially harmful pollutants
3.	Exceedance of water quality objectives	No evidence of toxicity	No indications of alteration	Contaminants are not bioavailable Test organisms not sensitive to problem pollutants	TIE would not provide useful information with no evidence of toxicity Continue monitoring for toxic and benthic impacts Initiate upstream source identification as a low priority Consider whether different or additional test organisms should be evaluated
4.	No persistent exceedances of water quality objectives	Evidence of toxicity	No indications of alteration	Unmeasured contaminant(s) or conditions have the potential to cause degradation Pollutant causing toxicity at very low levels	Recheck chemical analyses; verify toxicity test results Consider additional advanced chemical analyses Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a medium priority
5.	No persistent exceedances of water quality objectives	No evidence of toxicity	Indications of alteration	Alteration may not be due to toxic contamination Test organisms not sensitive to problem pollutants	No action necessary due to toxic chemicals Initiate upstream source identification (for physical sources) as a high priority Consider whether different or additional test organisms should be evaluated
6.	Exceedance of water quality objectives	Evidence of toxicity	No indications of alteration	Toxic contaminants are bioavailable, but in situ effects are not demonstrable Benthic analysis not sensitive enough to detect impact Potentially harmful pollutants not yet concentrated enough to change community	Determine if chemical and toxicity tests indicate persistent degradation Recheck benthic analyses; consider additional data analyses If recheck indicates benthic alteration, perform TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority If recheck shows no effect, use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a medium priority
7.	No persistent exceedances of water quality objectives	Evidence of toxicity	Indications of alteration	Unmeasured toxic contaminants are causing degradation Pollutant causing toxicity at very low levels Benthic impact due to habitat disturbance, not toxicity	Recheck chemical analyses and consider additional advanced analyses Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority Consider potential role of physical habitat disturbance
8.	Exceedance of water quality objectives	No evidence of toxicity	Indications of alteration	Test organisms not sensitive to problem pollutants Benthic impact due to habitat disturbance, not toxicity	TIE would not provide useful information with no evidence of toxicity Initiate upstream source identification as a high priority Consider whether different or additional test organisms should be evaluated Consider potential role of physical habitat disturbance

4. AMBIENT COASTAL RECEIVING WATERS MONITORING (ACRW)

Copermittees must continue to conduct the Ambient Coastal Receiving Waters Monitoring (ACRW) program to assess the impact of MS4 discharge to ecologically-sensitive coastal areas by analyzing water chemistry and aqueous toxicity in both dry and wet weather and the magnitude of storm water discharge plumes to these areas. Copermittees must prioritize locations for further study and conduct special investigations.

[6] Orange County Storm Water Program, 2006. Report of Waste Discharge (San Diego Region), Section 11.

Administrative Record Page No. 025231

a. Locations: Copermittees must assess the existing Ambient Coastal Receiving Waters Monitoring (ACRW) stations to determine whether all ecologically-sensitive areas are represented. Stations must be established within all Areas of Special Biological Significance (ASBS) and Marine Life Refuges that receive significant MS4 discharges.

(1) Dana Point Harbor must continue to be monitored. ACRW monitoring in Dana Point Harbor may be suspended as long as the Harbor is being monitored pursuant to the Regional Harbor Monitoring Program[7] and follow-up investigations are conducted when appropriate based on guidance from the Storm Water Monitoring Coalition.

b. Parameters: Aquatic chemistry and aqueous toxicity must be conducted using the same parameters and methods as the mass loading station monitoring.

c. ACRW monitoring must be concurrent with the mass loading station monitoring whenever feasible.

d. Special investigations Ambient Coastal Receiving Waters: Special investigations must be designed and conducted to most effectively answer each of questions 1-5 of section I.B above, with an emphasis on answering question 4.

5. REGIONAL MONITORING PROGRAMS

a. Regional Bacteria Monitoring

The Copermittees shall participate in the development and implementation of monitoring for the collaborative regional bacteria monitoring program. It is expected that the regional monitoring will allow for a more effective and efficient bacteria monitoring program. The regional monitoring plan must be submitted to the Executive Officer for review and approval. Documentation of participation and monitoring shall be included in the annual report.

[7] On July 24, 2003, the Regional Board required the County of Orange to participate in an Investigative Order to comprehensively assess the receiving water conditions of Dana Point Harbor. The Regional Harbor Monitoring Program is described in the *Regional Technical Report: Harbor Monitoring Program for San Diego Region San Diego Bay, Mission Bay, Oceanside Harbor, and Dana Point Harbor,* MEC Analytical Systems and Brock Bernstein, February 2004.

b. Regional Monitoring Programs

The Regional Board recognizes the importance and advantages of participation by Copermittees in Regional Monitoring Programs. As such, the Copermittees may propose participation in additional regional monitoring programs to supplement and/or replace existing monitoring requirements. The regional monitoring plan must be submitted to the Executive Officer for review and approval. Documentation of participation and monitoring shall be included in the annual report.

B. Wet Weather MS4 Discharge Monitoring

Each Copermittee must collaborate with the other Copermittees to develop, conduct, and report on a year-round watershed based Wet Weather MS4 Discharge Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting must be conducted on a watershed basis for each of the hydrologic units. The monitoring program must be designed to meet the goals and answer the questions listed in section I above. The monitoring program must include the following components;

1. MS4 OUTFALL MONITORING

The Copermittees must collaborate to develop and implement a monitoring program to characterize pollutant discharges from MS4 outfalls in each watershed during wet weather. The program must include rationale and criteria for selection of outfalls to be monitored. The program must, at a minimum, include collection of samples for those pollutants causing or contributing to violations of water quality standards within the watershed. This monitoring program must be implemented within each watershed and must begin no later than the 2010-2011 monitoring year.

a. The program must comply with Section D of the Order for Storm Water Action Levels (SALs). Samples must be collected during the first 24 hours of the storm water discharge or for the entire storm water discharge if it is less than 24 hours.

1. Grab samples may be utilized only for pH, indicator bacteria, DO, temperature and hardness.

2. All other constituents must be sampled using 24 hour composite samples or for the entire storm water discharge if the storm event is less than 24 hours.

b. Sampling to compare MS4 outfall discharges with total metal SALs must include a measurement of receiving water hardness at each outfall. If a total metal concentration exceeds a SAL, that concentration must be compared to the California Toxic Rule criteria and the USEPA 1 hour maximum concentration for the detected level of receiving water hardness associated with that sample. If it is determined that the sample's total metal concentration for that specific pollutant exceeds the SAL but does not exceed the applicable 1 hour criteria for the measured level of hardness, then the SAL shall be considered not exceeded for that measurement.

2. SOURCE IDENTIFICATION MONITORING

The Copermittees must collaborate to develop and implement a monitoring program to identify sources of pollutants causing the priority water quality problems within each watershed. The monitoring program must include focused monitoring which moves upstream into each watershed as necessary to identify sources. This monitoring program must be implemented within each watershed and must begin no later than the 2010-2011 monitoring year.

C. Non-Storm Water Dry Weather Action Levels

Each Copermittee must collaborate with the other Copermittees to conduct, and report on a year-round watershed based Dry Weather Non-storm Water MS4 Discharge Monitoring Program. The monitoring program implementation, analysis, assessment, and reporting must be conducted on a watershed basis for each of the hydrologic units. The monitoring program must be designed to assess compliance with non-storm water dry weather action levels in section C of this Order, adopted dry weather Total Maximum Daily Loads Waste Load Allocations and assessment of the contribution of dry weather flows to 303(d) listed impairments. The monitoring program must include the following components;

Administrative Record Page No. 025234

Each Copermittee's program must be designed to determine levels of pollutants in effluent discharges from the MS4 into receiving waters. Each Copermittee must conduct the following dry weather field screening and analytical monitoring tasks:

a. Dry Weather Non-storm Water Effluent Analytical Monitoring Stations

(1) Stations must be major outfalls. Major outfalls chosen must include outfalls discharging to inland surface waters; to bays, harbors and lagoons/estuaries; and to the surf zone. Other outfall points (or any other point of access such as manholes) identified by the Copermittees as potential high risk sources of polluted effluent or as identified under Section C.3.e shall be sampled.

(2) Each Copermittee must clearly identify each dry weather effluent analytical monitoring station on its MS4 Map as either a separate GIS layer or a map overlay hereafter referred to as a Dry Weather Non-storm Water Effluent Analytical Stations Map.

b. Develop Dry Weather Non-storm Water Effluent Analytical Monitoring Procedures

Each Copermittee must develop and/or update written procedures for effluent analytical monitoring (these procedures must be consistent with 40 CFR part 136), including field observations, monitoring, and analyses to be conducted. At a minimum, the procedures must meet the following guidelines and criteria:

(1) Determining Sampling Frequency: Effluent analytical monitoring must be conducted at major outfalls and identified stations. The Copermittees must sample a representative number of major outfalls and identified stations. The sampling must be done to assess compliance with dry weather non-storm water action levels pursuant to section C of this Order. All monitoring conducted must be preceded by a minimum of 72 hours of dry weather.

(2) If ponded MS4 discharge is observed at a monitoring station, make observations and collect at least one (1) grab sample. If flow is evident a 1 hour composite sample may be taken. Record flow estimation (i.e., width of water surface, approximate depth of water, approximate flow velocity, flow rate).

Administrative Record Page No. 025235

(3) Effluent samples shall undergo analytical laboratory analysis for constituents in: *Table 1. Analytical Testing for Mass Loading, Urban Stream Bioassessment, and Ambient Coastal Receiving Waters Stations* and for those constituents with action levels under Section C of this Order. Effluent samples must also undergo analysis for Chloride, Sulfate and Total Dissolved Solids.

(4) If the station is dry (no flowing or ponded MS4 discharge), make and record all applicable observations.

(5) Develop and/or update criteria for dry weather non-storm water effluent analytical monitoring results:

(a) Criteria must include action levels in Section C of this Order.
(b) Criteria must include evaluation of LC_{50} levels for toxicity to appropriate test organisms

(6) Develop and/or update procedures for source identification follow up investigations in the event of exceedance of dry weather non-storm water effluent analytical monitoring result criteria. These procedures must be consistent with procedures required in section F.4.d and F.4.e. of this Order.

(7) Develop and/or update procedures to eliminate detected illicit discharges and connections. These procedures must be consistent with the non-storm water dry weather action levels in Section C and with each Copermittees' Illicit Discharge and Elimination component of its Jurisdictional Runoff Management Plan as discussed in section F.4 and F.4.e. of this Order.

c. Conduct Dry Weather Non-storm Water Effluent Analytical Monitoring

The Copermittees must commence implementation of dry weather effluent analytical monitoring under the requirements of this Order no later than May 1, 2011. If monitoring indicates an illicit connection or illegal discharge, conduct the follow-up investigation and elimination activities as described in submitted dry weather field screening and analytical monitoring procedures and found in sections C, F.4.d and F.4.e of Order No. R9-2009-0002.

(a) Until the dry weather non-storm water effluent analytical monitoring program is implemented under the requirements of this Order, each Copermittee must continue to implement dry weather field screening and analytical monitoring as it was most recently implemented pursuant to Order No. 2002-01.

D. Special Studies

1. Aliso Creek bacteria investigation: Each Copermittee within the Aliso Creek watershed must implement the Aliso Creek 13225 Directive Revised Monitoring Program Design – Integration with NPDES Program8 (December 2004). The Copermittees must include that monitoring program into the overall monitoring and reporting program.

2. The Copermittees must conduct special studies, including any monitoring required for TMDL development and implementation, as directed by the Executive Officer. A TMDL Monitoring Plan must be developed to comply with TMDL Resolution No. R9-2008-0027. The monitoring plan must be submitted within 365 days of Order adoption.

3. Stormwater Monitoring Coalition Regional Monitoring of Southern California's Coastal Watersheds:

   The Copermittees must implement the monitoring program developed by the Stormwater Monitoring Coalition for Regional Monitoring of the Southern California's Coastal Watersheds within the San Juan Hydrologic Unit. Each Copermittee must evaluate the results of the monitoring program within and downstream of its jurisdiction and integrate the results into program assessments and modifications.

4. Sediment Toxicity Study

   Copermittees must develop, submit to the Regional Board for review, and implement an approved special study which will investigate the toxicity of sediment in urban streams. The Study must be submitted within 24 months of adoption of Order R9-2009-0002. After Regional

[8] On October 12, 2005, the Regional Board accepted the revised Aliso Creek watershed bacteria monitoring plan proposal from the MS4 Copermittees. The Regional Board concluded that the scope of the current bacteria monitoring in the watershed was no longer warranted and that the proposed changes would constitute an effective interim program until adoption in the future of a Total Maximum Daily Load, requiring a bacteria reduction and assessment program for the watershed. In addition, the Regional Board recognized that as a result of reduced monitoring costs, the municipalities expect to direct additional resources toward implementation of management practices to reduce indicator bacteria and pathogens.

Administrative Record Page No. 025237

Board review, the Sediment Toxicity Study must be implemented in conjunction with the Urban Stream Bioassesment Monitoring and, at a minimum, contain the following:

a. Locations: At a minimum, 4 bioassessment locations must be sampled, including 1 reference site.

b. Frequency: At a minimum, sampling must occur once per year at each site for at least 2 years. Sampling must be done in conjunction with the bioassessment sampling required under Section II.A.2 of the Monitoring and Reporting Program of this Order.

c. Parameters/Methods: At a minimum, sediment toxicity analysis shall include the measurement of metals, pyrethroids and organochlorine pesticides. Analysis must include estimates of bioavailability based upon sediment grain size, organic carbon and receiving water temperature. Acute and chronic toxicity testing must be done using Hyalella azteca in accordance with Table 2.

d. Results: Results and a Discussion shall be included in the Monitoring Annual Report. The Discussion must include an assessment of the relationship between observed IBI scores under Section II.A.2 and all variables measured.

5. Trash and Litter Impairment Investigation

Copermittees must develop and implement a special investigation beginning no later than 2 years following the adoption of this Order to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. Litter is defined in California Government Code 68055.1g as “litter means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or container constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic ,materials, thrown or deposited on lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.” A lead Copermittee may be selected for each watershed, and will be responsible for the following:

a. Locations: The lead Copermittee will identify suitable sampling locations within each watershed.

b. Frequency: Trash at each location shall be monitored a minimum of twice during the wet season following a qualified monitoring storm event (minimum of 0.1 inches preceded by 72 hours of dry weather) and twice during the dry season.

c. Protocol: The lead Copermittee for each watershed shall use the Final Monitoring Workplan for the Assessment of Trash in San Diego County Watersheds and A Rapid Trash Assessment Method Applied to Waters of the San Francisco Bay Region to develop a monitoring protocol for each Watershed. The draft monitoring protocol, including sampling locations and frequency, shall be submitted to the Regional Board for review no later than 365 days following the adoption of this Order. Although sampling must occur on a watershed basis, a County-wide protocol may be developed that incorporates each individual watershed.

d. Results and Discussion from the Trash and Litter Impairment Study shall be included in the Monitoring Annual Report.

E. Monitoring Provisions

All monitoring activities must meet the following requirements:

1. Where procedures are not otherwise specified in this Receiving Waters Monitoring and Reporting Program, sampling, analysis and quality assurance/quality control must be conducted in accordance with the Quality Assurance Management Plan (QAMP) for the State of California's Surface Water Ambient Monitoring Program (SWAMP), adopted by the State Water Resources Control Board (SWRCB).

2. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity [40 CFR 122.41(j)(1)].

3. The Copermittees must retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or USEPA at any time and must be extended during the course of any unresolved litigation regarding this discharge. [40 CFR 122.41(j)(2), CWC section 13383(a)]

4. Records of monitoring information must include [40 CFR 122.41(j)(3)]:

   a. The date, exact place, and time of sampling or measurements;
   b. The individual(s) who performed the sampling or measurements;
   c. The date(s) analyses were performed;
   d. The individual(s) who performed the analyses;
   e. The analytical techniques or methods used; and
   f. The results of such analyses.

5. All sampling, sample preservation, and analyses must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this Receiving Waters Monitoring and Reporting Program or approved by the Executive Officer [40 CFR 122.41(j)(4)].

6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order must, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. [40 CFR 122.41(j)(5)]

7. Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified in this Receiving Waters Monitoring and Reporting Program. [40 CFR 122.41(l)(4)(iii)]

8. All chemical, bacteriological, and toxicity analyses must be conducted at a laboratory certified for such analyses by the California Department of Health Services or a laboratory approved by the Executive Officer.

9. For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Copermittees must instruct its laboratories to establish calibration standards that are equivalent to or lower than the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). If a Copermittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method

specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Copermittee must submit documentation from the laboratory to the Regional Board for approval prior to raising the ML for any priority toxic pollutant.

10. The Regional Board Executive Officer or the Regional Board may make revisions to this Receiving Waters and MS4 Discharge Monitoring and Reporting Program at any time during the term of Order No. R9-2009-002 and may include a reduction or increase in the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

11. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance must, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both. [40 CFR 122.41(k)(2)]

12. Monitoring must be conducted according the USEPA test procedures approved under 40 CFR 136, “Guidelines Establishing Test Procedures for Analysis of Pollutants under the Clean Water Act” as amended, unless other test procedures have been specified in this Receiving Waters and MS4 Discharge Monitoring and Reporting Program, in Order No. R9-2009-002, or by the Executive Officer.

13. If the discharger monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring must be included in the calculation and reporting of the data submitted in the reports requested by the Regional Board. [40 CFR 122.41(l)(4)(ii)]

III. REPORTING PROGRAM

A. Monitoring Reporting

1. Planned Monitoring Program: The Principal Copermittee must submit a description of the Receiving Waters and MS4 Discharge Monitoring Program to be implemented for every monitoring year. The submittals must begin on September 1, 2010, and continue every year thereafter.

Administrative Record Page No. 025241

The submittals must describe all monitoring to be conducted during the upcoming monitoring year. For example, the September 1, 2010. submittal must describe the monitoring to be conducted from October 1, 2010 through September 30, 2011.

2. Monitoring Annual Report: The Principal Copermittee must submit the Receiving Waters and MS4 Discharge Monitoring Annual Report to the Regional Board on October 1 of each year, beginning on October 1, 2011. Receiving Waters and MS4 Discharge Monitoring Annual Reports must meet the following requirements:

   a. Annual monitoring reports must include the data/results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each monitoring program component.

   b. Annual monitoring reports must include a watershed-based analysis of the findings of each monitoring program component. Each watershed-based analysis must include:

      (1) Identification and prioritization of water quality problems within each watershed.
      (2) Identification and description of the nature and magnitude of potential sources of the water quality problems within each watershed.
      (3) Exhibition of pollutant load and concentration increases or decreases at each mass loading and temporary watershed assessment station.
      (4) Evaluation of pollutant loads and concentrations at mass loading and temporary watershed assessment stations with respect to land use, population, sources, and other characteristics of watersheds using tools such as multiple linear regression, factor analysis, and cluster analysis.
      (5) Identification of links between source activities/conditions and observed receiving water impacts.
      (6) Identification of recommended future monitoring to identify and address sources of water quality problems.
      (7) Results and discussion of any TIE conducted, together with actions that will be implemented to reduce the discharge of pollutants and abate the sources causing the toxicity.

   c. Aliso Creek Bacteria Investigation: Annual monitoring reports for the Aliso Creek Bacteria Investigation must contain the following information:

Administrative Record Page No. 025242

(1) Water quality data and assessment. The report must contain all data collected and an assessment of compliance with applicable water quality standards for each monitoring station;

(2) Program Assessment. A description and assessment of each municipality's program implemented within the high-priority storm drain locations to reduce storm water discharges of indicator fecal bacteria/pathogens. Water quality monitoring alone is not sufficient to assess progress of the municipal programs. Municipalities must demonstrate each year that their programs are effective and resulting in a reduction of bacteria sources.

(a) For structural and nonstructural management practices implemented, the assessment must contain a description of the practice, capital and maintenance costs, expectations for effectiveness, date implemented, and any observed results.

(b) For structural and nonstructural management practices implemented, the assessment must contain a description of the practice, capital and maintenance costs, expectations for effectiveness, date implemented, and any observed results

d. Annual monitoring reports must include discussions for each watershed which answer each of the management questions listed in section I.B of this Receiving Waters Monitoring and Reporting Program.

e. Annual monitoring reports must identify how each of the goals listed in section I.A of this Receiving Waters Monitoring and Reporting Program has been addressed by the Copermittees' monitoring.

f. Annual monitoring reports must include identification and analysis of any long-term trends in storm water or receiving water quality. Trend analysis must use nonparametric approaches, such as the Mann-Kendall test, including exogenous variables in a multiple regression model, and/or using a seasonal nonparametric trend model, where applicable.

g. Annual monitoring reports must provide an estimation of total pollutant loads (wet weather loads plus dry weather loads) due to MS4 Discharge for each of the watersheds specified in Table 3 of Order No. R9-2009-0002.

h. Annual monitoring reports must, for each monitoring program component listed above, include an assessment of compliance with applicable water quality standards.

i. Annual monitoring reports must describe monitoring station locations by latitude and longitude coordinates, frequency of sampling, quality assurance/quality control procedures, and sampling and analysis protocols.

j. Annual monitoring reports must use a standard report format and must include the following:

(1) A stand alone comprehensive executive summary addressing all sections of the monitoring report;
(2) Comprehensive interpretations and conclusions; and
(3) Recommendations for future actions.

k. All monitoring reports submitted to the Principal Copermittee or the Regional Board must contain the certified perjury statement described in Attachment B of this Order No. R9-2009-0002.

l. Annual monitoring reports must be reviewed prior to submittal to the Regional Board by a committee of the Copermittees (consisting of no less than three members).

m. Annual monitoring reports must be submitted in both electronic and paper formats. Electronic formats must be CEDEN or SWAMP-uploadable.[9]

3. The Principal Copermittee must submit by July 1, 2010, a detailed description of the monitoring programs to be implemented under requirement II.B.1 of Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-002. The description must identify and provide the rationale for the constituents monitored, locations of monitoring, frequency of monitoring, and analyses to be conducted with the data generated.

4. Monitoring programs and reports must comply with section II.D of Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2009-002 and Attachment B of Order No. R9-2009-002.

[9] For updates to the SWAMP templates and formats, see http://www.waterboards.ca.gov/swamp.

Administrative Record Page No. 025244

5. Following completion of an annual cycle of monitoring in October, the Copermittees must make the monitoring data and results available to the Regional Board at the Regional Board's request.

B. Interim Reporting Requirements

For the October 2009 to October 2010 monitoring period, the Principal Copermittee must submit the Receiving Waters Monitoring Annual Report by January 31, 2011. The Receiving Waters Monitoring Annual Report must address the monitoring conducted to comply with the requirements of Order No. 2002-001.

This page left intentionally blank

Attachment F

SOURCE DATA

I. STORM WATER ACTION LEVELS.....2

II. NON-STORM WATER NUMERIC ACTION LEVELS.....9

Administrative Record Page No. 025247

I. STORM WATER ACTION LEVELS

N02+NO3 (mg/l)	Phosphorous Total (mg/l)	Cadmium Total (ug/l)	Copper Total (ug/l)	Lead Total (ug/l)	Nickel Total (ug/l)	Zinc Total (ug/l)	Turbidity (NTU)
4.70	7.90	9.80	800.00	660.00	120.00	22500.00	10
4.20	7.19	6.00	340.00	620.00	110.00	18000.00	15
3.90	4.96	6.00	320.00	540.00	100.00	11000.00	15
3.90	4.50	6.00	270.00	520.00	100.00	9970.00	16
3.60	4.40	6.00	244.00	460.00	95.00	9100.00	22
3.60	4.24	6.00	230.00	450.00	89.00	8800.00	23
3.60	2.59	5.30	220.00	450.00	87.00	6500.00	23
3.50	2.59	5.00	220.00	440.00	84.00	5500.00	24
3.30	2.50	4.10	210.00	430.00	81.00	5000.00	24
3.30	2.50	4.00	210.00	400.00	75.00	4900.00	30
3.10	2.50	4.00	209.00	380.00	71.00	4600.00	31
3.00	2.27	4.00	209.00	360.00	69.00	4300.00	33
2.96	2.00	4.00	200.00	350.00	68.00	3800.00	36
2.90	2.00	4.00	200.00	330.00	68.00	3800.00	36
2.70	2.00	4.00	200.00	320.00	64.00	3400.00	39
2.70	2.00	3.90	200.00	320.00	63.00	3390.00	40
2.60	1.90	3.80	200.00	320.00	60.00	3100.00	45
2.60	1.90	3.40	180.00	310.00	60.00	2500.00	50
2.60	1.80	3.40	180.00	310.00	59.00	2200.00	50
2.50	1.80	3.20	166.00	310.00	59.00	2100.00	60
2.50	1.70	3.10	163.00	310.00	58.00	1829.00	61
2.32	1.70	3.00	160.00	300.00	54.00	1700.00	62
2.30	1.70	3.00	150.00	290.00	54.00	1500.00	65
2.20	1.60	3.00	140.00	280.00	54.00	1400.00	65
2.20	1.60	3.00	140.00	270.00	54.00	1300.00	66
2.10	1.60	3.00	140.00	270.00	53.00	1300.00	69
2.10	1.53	3.00	140.00	270.00	53.00	1285.00	70
2.10	1.50	3.00	140.00	270.00	52.00	1200.00	72
2.10	1.50	3.00	130.00	260.00	52.00	1100.00	80
2.00	1.47	3.00	130.00	260.00	47.00	1054.00	84
2.00	1.46	3.00	128.00	250.00	47.00	1000.00	97
2.00	1.40	3.00	120.00	250.00	45.00	980.00	111
2.00	1.40	3.00	120.00	250.00	44.00	960.00	140
1.90	1.40	3.00	120.00	245.00	44.00	850.00	151
1.90	1.30	2.90	120.00	230.00	42.00	850.00	157
1.90	1.30	2.80	120.00	230.00	42.00	850.00	590
1.90	1.30	2.70	111.00	225.00	40.00	850.00	
1.90	1.30	2.60	111.00	220.00	39.00	840.00	
1.80	1.30	2.50	110.00	220.00	36.00	780.00	
1.80	1.30	2.40	110.00	210.00	35.00	768.00	
1.70	1.24	2.40	110.00	210.00	35.00	760.00	
1.70	1.20	2.30	110.00	200.00	34.00	750.00	

Administrative Record Page No. 025248

1.70	1.20	2.20	110.00	200.00	33.00	740.00	
1.70	1.20	2.10	110.00	190.00	33.00	740.00	
1.70	1.20	2.00	100.00	190.00	33.00	730.00	
1.70	1.10	2.00	100.00	190.00	33.00	720.00	
1.70	1.10	2.00	100.00	190.00	32.00	710.00	
1.60	1.10	2.00	100.00	170.00	32.00	710.00	
1.60	1.10	2.00	100.00	170.00	32.00	700.00	
1.60	1.06	2.00	100.00	170.00	32.00	700.00	
1.60	1.00	2.00	99.00	160.00	32.00	690.00	
1.60	0.96	2.00	94.00	160.00	30.00	690.00	
1.60	0.96	2.00	91.00	150.00	29.00	680.00	
1.60	0.94	2.00	91.00	150.00	28.00	680.00	
1.53	0.94	2.00	90.00	150.00	27.00	670.00	
1.50	0.92	2.00	90.00	150.00	27.00	660.00	
1.50	0.91	2.00	89.00	150.00	27.00	660.00	
1.50	0.85	2.00	87.00	140.00	27.00	660.00	
1.50	0.85	2.00	87.00	140.00	27.00	650.00	
1.50	0.85	2.00	84.00	140.00	26.00	630.00	
1.50	0.83	2.00	83.00	130.00	26.00	610.00	
1.40	0.83	2.00	82.00	130.00	25.00	610.00	
1.40	0.83	2.00	81.00	130.00	24.50	597.00	
1.40	0.81	2.00	81.00	130.00	24.00	590.00	
1.40	0.81	2.00	77.00	130.00	24.00	590.00	
1.40	0.81	2.00	77.00	123.00	24.00	576.00	
1.40	0.80	2.00	76.00	120.00	24.00	570.00	
1.40	0.80	2.00	74.00	120.00	23.00	570.00	
1.32	0.78	2.00	72.00	120.00	23.00	560.00	
1.30	0.78	1.90	72.00	120.00	23.00	560.00	
1.30	0.77	1.90	72.00	120.00	23.00	540.00	
1.30	0.77	1.90	72.00	115.00	23.00	540.00	
1.30	0.76	1.80	72.00	110.00	23.00	520.00	
1.30	0.76	1.80	71.00	110.00	22.00	520.00	
1.30	0.75	1.80	70.00	110.00	22.00	520.00	
1.30	0.75	1.70	70.00	110.00	22.00	510.00	
1.29	0.75	1.60	67.00	102.00	22.00	500.00	
1.20	0.74	1.60	66.00	100.00	21.00	500.00	
1.20	0.73	1.60	66.00	100.00	21.00	490.00	
1.20	0.72	1.60	66.00	100.00	21.00	480.00	
1.20	0.72	1.60	65.00	100.00	21.00	475.00	
1.20	0.72	1.60	65.00	100.00	21.00	470.00	
1.20	0.71	1.50	63.00	99.00	20.00	470.00	
1.20	0.71	1.50	63.00	97.00	20.00	462.00	
1.20	0.69	1.40	62.00	97.00	20.00	460.00	
1.20	0.68	1.30	62.00	97.00	19.00	460.00	
1.20	0.68	1.30	60.00	95.00	19.00	450.00	
1.20	0.68	1.20	60.00	91.00	19.00	440.00	
1.10	0.68	1.20	59.00	90.00	19.00	440.00	
1.10	0.68	1.20	56.59	90.00	19.00	440.00	

Administrative Record Page No. 025249

1.10	0.67	1.20	55.00	87.00	19.00	430.00	
1.10	0.66	1.10	55.00	86.00	19.00	430.00	
1.10	0.66	1.10	54.00	86.00	19.00	430.00	
1.10	0.65	1.10	54.00	84.00	18.40	420.00	
1.10	0.65	1.10	54.00	82.00	18.00	420.00	
1.10	0.65	1.10	53.00	82.00	18.00	410.00	
1.10	0.65	1.00	53.00	81.00	18.00	409.00	
1.00	0.63	1.00	52.00	78.00	18.00	400.00	
1.00	0.62	1.00	51.00	78.00	18.00	400.00	
1.00	0.61	1.00	50.00	78.00	17.00	400.00	
1.00	0.60	1.00	50.00	77.00	16.00	390.00	
1.00	0.60	1.00	50.00	76.00	16.00	390.00	
1.00	0.59	1.00	50.00	76.00	15.40	390.00	
0.99	0.57	1.00	50.00	69.00	15.00	390.00	
0.99	0.57	1.00	50.00	69.00	15.00	390.00	
0.98	0.56	1.00	50.00	67.00	15.00	370.00	
0.97	0.56	1.00	50.00	66.00	15.00	370.00	
0.96	0.55	1.00	49.00	66.00	14.00	370.00	
0.96	0.55	1.00	49.00	66.00	14.00	360.00	
0.95	0.55	1.00	49.00	65.00	14.00	360.00	
0.95	0.53	1.00	48.00	64.00	14.00	360.00	
0.93	0.53	1.00	48.00	61.00	14.00	360.00	
0.93	0.53	1.00	47.00	57.00	14.00	350.00	
0.93	0.52	1.00	46.08	57.00	14.00	350.00	
0.93	0.52	1.00	46.00	56.00	14.00	350.00	
0.92	0.52	1.00	46.00	56.00	13.00	340.00	
0.90	0.52	1.00	44.25	53.00	13.00	340.00	
0.88	0.51	1.00	44.00	53.00	13.00	340.00	
0.87	0.51	1.00	44.00	52.60	13.00	340.00	
0.86	0.50	1.00	44.00	52.00	13.00	340.00	
0.85	0.49	1.00	44.00	51.00	13.00	340.00	
0.84	0.49	1.00	43.00	51.00	13.00	334.00	
0.83	0.48	1.00	43.00	50.00	13.00	330.00	
0.81	0.48	1.00	43.00	50.00	13.00	330.00	
0.81	0.48	1.00	42.00	50.00	12.02	330.00	
0.80	0.47	1.00	42.00	50.00	12.00	330.00	
0.80	0.47	1.00	42.00	50.00	12.00	330.00	
0.78	0.47	1.00	41.00	50.00	12.00	330.00	
0.78	0.46	1.00	40.00	50.00	12.00	330.00	
0.77	0.46	1.00	40.00	50.00	12.00	320.00	
0.77	0.46	1.00	40.00	50.00	12.00	320.00	
0.77	0.45	1.00	40.00	50.00	11.40	320.00	
0.74	0.45	1.00	40.00	50.00	11.00	320.00	
0.73	0.44	1.00	39.00	49.00	11.00	310.00	
0.72	0.44	1.00	39.00	47.00	11.00	310.00	
0.69	0.44	1.00	39.00	46.00	11.00	310.00	
0.69	0.44	1.00	39.00	46.00	11.00	308.00	
0.69	0.44	1.00	39.00	44.00	11.00	300.00	

Administrative Record Page No. 025250

0.67	0.44	1.00	39.00	44.00	11.00	300.00	
0.67	0.44	1.00	37.00	43.00	11.00	300.00	
0.66	0.43	1.00	37.00	42.00	11.00	300.00	
0.66	0.42	1.00	37.00	41.00	10.50	290.00	
0.65	0.42	1.00	37.00	41.00	10.20	285.00	
0.63	0.41	1.00	37.00	41.00	10.20	280.00	
0.62	0.41	1.00	36.00	41.00	10.10	280.00	
0.62	0.41	1.00	36.00	41.00	10.00	280.00	
0.62	0.40	1.00	36.00	40.10	10.00	280.00	
0.60	0.40	1.00	36.00	40.00	10.00	280.00	
0.59	0.40	1.00	35.00	39.30	10.00	280.00	
0.59	0.40	1.00	35.00	39.00	10.00	280.00	
0.58	0.40	1.00	34.00	39.00	10.00	280.00	
0.57	0.40	1.00	34.00	39.00	10.00	280.00	
0.57	0.40	1.00	33.40	38.00	10.00	270.00	
0.55	0.40	1.00	33.00	38.00	10.00	270.00	
0.52	0.40	1.00	33.00	38.00	10.00	270.00	
0.50	0.40	1.00	33.00	37.00	9.70	270.00	
0.50	0.39	1.00	33.00	36.00	9.30	270.00	
0.46	0.39	1.00	33.00	36.00	9.20	270.00	
0.42	0.39	1.00	32.26	36.00	9.03	260.00	
0.42	0.38	1.00	32.01	36.00	9.00	260.00	
0.35	0.38	1.00	32.00	35.00	9.00	260.00	
0.10	0.38	1.00	32.00	34.00	9.00	260.00	
0.06	0.37	1.00	32.00	34.00	9.00	260.00	
	0.36	1.00	32.00	33.00	9.00	250.00	
	0.36	1.00	32.00	33.00	8.90	250.00	
	0.36	1.00	32.00	33.00	8.79	250.00	
	0.36	1.00	31.00	33.00	8.60	250.00	
	0.35	1.00	31.00	32.00	8.50	247.00	
	0.35	1.00	31.00	32.00	8.50	242.13	
	0.35	1.00	31.00	31.94	8.47	240.00	
	0.35	1.00	30.00	30.00	8.26	240.00	
	0.34	1.00	30.00	30.00	8.00	240.00	
	0.34	1.00	30.00	30.00	8.00	240.00	
	0.34	1.00	30.00	30.00	8.00	240.00	
	0.34	1.00	30.00	30.00	8.00	230.00	
	0.34	1.00	29.00	30.00	8.00	230.00	
	0.34	1.00	29.00	30.00	8.00	220.00	
	0.33	1.00	28.00	29.00	8.00	220.00	
	0.33	1.00	28.00	29.00	8.00	220.00	
	0.33	0.98	28.00	29.00	8.00	210.00	
	0.33	0.94	28.00	29.00	8.00	210.00	
	0.33	0.94	27.19	28.00	8.00	210.00	
	0.33	0.92	27.00	28.00	7.80	210.00	
	0.32	0.90	27.00	28.00	7.70	210.00	
	0.32	0.90	27.00	27.00	7.60	210.00	
	0.32	0.86	26.00	27.00	7.60	210.00	

	0.32	0.80	26.00	26.31	7.42	205.00	
	0.32	0.80	26.00	26.00	7.40	202.79	
	0.31	0.71	25.00	26.00	7.31	202.00	
	0.31	0.70	25.00	25.00	7.20	200.00	
	0.30	0.70	25.00	25.00	7.10	200.00	
	0.30	0.60	24.00	25.00	7.00	200.00	
	0.30	0.60	24.00	24.60	7.00	200.00	
	0.30	0.59	23.00	24.00	6.90	200.00	
	0.30	0.59	23.00	24.00	6.70	200.00	
	0.30	0.52	23.00	24.00	6.00	200.00	
	0.30	0.50	23.00	24.00	6.00	194.49	
	0.29	0.50	23.00	23.00	6.00	190.00	
	0.29	0.50	22.00	23.00	6.00	190.00	
	0.29	0.50	22.00	23.00	6.00	190.00	
	0.29	0.50	21.00	23.00	6.00	190.00	
	0.29	0.50	21.00	23.00	6.00	184.13	
	0.29	0.50	21.00	23.00	6.00	180.00	
	0.28	0.50	21.00	22.20	6.00	180.00	
	0.28	0.50	20.36	22.00	5.92	180.00	
	0.28	0.50	20.00	22.00	5.90	180.00	
	0.27	0.50	20.00	22.00	5.40	180.00	
	0.27	0.50	20.00	22.00	5.13	180.00	
	0.27	0.50	20.00	21.20	5.10	180.00	
	0.26	0.50	20.00	21.10	5.00	170.00	
	0.26	0.40	19.00	21.00	5.00	170.00	
	0.26	0.40	19.00	20.00	5.00	170.00	
	0.26	0.40	18.00	19.10	5.00	170.00	
	0.25	0.30	18.00	19.00	5.00	160.00	
	0.25	0.30	18.00	19.00	5.00	160.00	
	0.25	0.30	18.00	19.00	5.00	160.00	
	0.25	0.30	18.00	19.00	5.00	160.00	
	0.25	0.30	17.00	18.50	5.00	160.00	
	0.25	0.30	17.00	18.00	5.00	160.00	
	0.24	0.20	17.00	18.00	5.00	160.00	
	0.24	0.20	17.00	18.00	5.00	160.00	
	0.24	0.20	17.00	18.00	5.00	160.00	
	0.23	0.04	17.00	17.00	4.80	160.00	
	0.23		17.00	17.00	4.74	150.00	
	0.23		17.00	17.00	4.70	150.00	
	0.23		17.00	17.00	4.60	150.00	
	0.22		16.00	17.00	4.55	150.00	
	0.22		16.00	17.00	4.38	150.00	
	0.22		16.00	17.00	4.16	146.00	
	0.22		16.00	17.00	4.00	145.00	
	0.22		16.00	17.00	4.00	140.00	
	0.22		15.00	16.90	4.00	140.00	
	0.22		15.00	16.00	3.64	140.00	
	0.21		15.00	15.00	3.60	140.00	

Administrative Record Page No. 025252

	0.21		15.00	15.00	3.50	140.00	
	0.21		15.00	15.00	3.00	140.00	
	0.21		14.50	15.00	3.00	140.00	
	0.21		14.00	15.00	2.80	140.00	
	0.21		14.00	14.00	2.00	140.00	
	0.20		14.00	14.00	1.00	140.00	
	0.20		14.00	14.00	1.00	136.55	
	0.20		14.00	13.00		135.60	
	0.20		14.00	13.00		130.00	
	0.20		13.00	13.00		130.00	
	0.20		13.00	13.00		130.00	
	0.20		13.00	13.00		130.00	
	0.20		13.00	12.00		130.00	
	0.20		13.00	12.00		130.00	
	0.19		13.00	12.00		130.00	
	0.19		12.00	12.00		127.00	
	0.19		12.00	12.00		124.00	
	0.19		12.00	12.00		122.05	
	0.19		12.00	11.00		120.00	
	0.19		11.00	11.00		120.00	
	0.19		11.00	11.00		120.00	
	0.18		10.00	10.00		120.00	
	0.18		10.00	10.00		112.11	
	0.18		10.00	10.00		110.00	
	0.18		10.00	10.00		110.00	
	0.18		9.60	10.00		110.00	
	0.18		9.60	10.00		110.00	
	0.17		9.10	10.00		110.00	
	0.17		9.10	10.00		110.00	
	0.17		9.00	10.00		110.00	
	0.17		8.30	9.60		110.00	
	0.17		8.20	9.40		110.00	
	0.16		8.00	9.10		108.00	
	0.15		8.00	9.00		100.00	
	0.15		7.70	9.00		100.00	
	0.15		7.70	9.00		100.00	
	0.15		7.00	9.00		100.00	
	0.15		7.00	8.00		100.00	
	0.15		6.80	8.00		100.00	
	0.14		6.80	8.00		99.00	
	0.14		6.80	8.00		98.00	
	0.14		6.50	8.00		97.00	
	0.14		6.50	8.00		93.40	
	0.14		6.30	8.00		92.00	
	0.14		6.30	7.60		92.00	
	0.14		6.10	7.50		90.00	
	0.13		5.60	7.00		90.00	
	0.13		5.40	7.00		90.00	

Administrative Record Page No. 025253

	0.13		5.20	6.00		86.00	
	0.13		5.00	6.00		83.00	
	0.13		4.90	6.00		81.00	
	0.12		4.50	5.90		81.00	
	0.12		4.10	5.80		80.00	
	0.12		4.10	5.40		80.00	
	0.11		3.90	5.00		80.00	
	0.11		3.40	5.00		80.00	
	0.11		2.60	5.00		80.00	
	0.11		2.60	5.00		79.00	
	0.10		2.60	5.00		73.00	
	0.10		2.30	5.00		72.00	
	0.10		2.00	4.80		70.00	
	0.10		2.00	4.80		70.00	
	0.09		1.70	4.70		70.00	
	0.08		1.50	4.60		70.00	
	0.06		1.50	4.00		64.00	
	0.03		1.50	4.00		63.00	
			1.40	3.80		61.00	
			1.40	3.00		60.00	
				3.00		56.00	
				2.30		44.00	
				2.00		40.00	
				1.60		37.00	
						35.00	
						30.00	
						26.00	
						24.00	
						20.00	
						10.00	
						5.00	

Administrative Record Page No. 025254

II. NON-STORM WATER ACTION LEVELS

Site	Chromium	Nickel	Copper	Zinc	Silver	Cadmium	Lead	Total Coliform	Fecal Coliform	Enterococcus	Dissolved Oxygen	pH	Turbidity	Nitrate as N	Surfactsnats (MBAS)	Reactive Phosphorous
	µg/L							CFU/100mL			mg/L		NTU	mg/L		
AVJ01P26	<8.00	4.7	7.3	230	<2.00	<1.00	<2.00	41,000	21,000	5,100	7.92	7.5	12.2	3.9	0.4	2.88
AVJ01P26	<8.00	5.4	11	22	<2.00	<1.00	<2.00	30,000	21,000	45,000	9.73	7.52	2.79	8.3	0.3	2.98
AVJ01P26	<8.00	<4.00	13	45	<2.00	<1.00	<2.00	10,300	8,200	8,400	4.3	8.3	2.8	2.8		1.11
AVJ01P26	<8.00	5.6	8.3	44	<2.00	<1.00	<2.00	44,000	19,400	18,400	8.04	7.91	6.02	2.9		2.55
AVJ01P26	<8.00	32	39	140	<2.00	1.4	7.5	67,000	46,000	32,000	7.76	7.72	9.24	2.7		1.88
AVJ01P26	1.1	6.7	8	28	<0.50	0.51	<0.50	330,000	22,000	24,000	6.48	8.17	2.53	3.9	0.1	1.72
AVJ01P26	2.3	8.3	7.3	25	0.79	2	1.6	410,000	20,000	16,000	7.85	7.82	6.03	5.6	<0.05	2.87
AVJ01P26	<0.50	4.2	2.5	9.6	<0.50	<0.50	<0.50	130,000	21,000	6,000	7.8	7.85	2.5	4.1	<0.04	1.96
AVJ01P26	0.89	7	8.5	28	<0.50	<0.50	<0.50	NR	NR	NR	7.76	7.78	4.26	8.6	0.17	3.87
AVJ01P26	<0.50	5.3	5.1	21	<0.50	<0.50	<0.50	160,000	38,000	11,000	5.83	7.55	2.36	4.4	0.14	4.33
AVJ01P26	<0.50	4.3	7.8	11	<0.50	<0.50	<0.50	25,000	6,000	22,000	7.15	8	40.4	3.6	0.11	1.98
AVJ01P26	0.66	3.2	6.7	14	<0.50	<0.50	<0.50	28,000	3,100	760	9.51	8.07	3.91	5.4	0.05	2.79
AVJ01P26	<0.50	3.9	6.3	23	<0.50	1.2	<0.50	57,000	3,000	3,600	6.45	8.03	3.31	5.6	0.07	3.26
AVJ01P26	<0.50	4.1	3.6	17	<0.50	<0.50	<0.50	150,000	11,000	11,000	6.59	8.07	6.06	6.7	0.1	3.3
AVJ01P26	<0.50	3	4.3	25	<0.50	<0.50	<0.50	>24,000	220	2,500	8.48	7.95	3.25	5.3	0.23	1.67
AVJ01P26	0.54	3.4	23	15	<0.50	<0.50	<0.50	44,000	7,100	14,700	8.85	8.01	3.02	4.1	0.11	1.82
AVJ01P26	<0.50	4.6	4.4	12	<0.50	<0.50	<0.50	>45,000	10,000	30,000	11.45	7.87	4.36	5.9	0.1	2.7
AVJ01P26	0.57	4.9	3.3	16	<0.50	<0.50	<0.50	56,000	4,100	10,800	8.55	8.03	3.09	11.3	0.1	3.67
AVJ01P27	<8.00	8.5	7.4	55	<2.00	1.8	<2.00				10.67	7.85	23.7	7.6	0.3	4.03
AVJ01P27	<8.00	6.2	14	50	<2.00	1.8	<2.00	89,000	67,000	36,000	8.55	8.08	12.4	6	0.1	3.15
AVJ01P27	<8.00	6	7.7	46	<2.00	1.5	<2.00	88,000	31,000	71,000	7.38	6.97	7.72	8.5	0.15	3.14

AVJ01P27	<8.00	6.9	8.5	44	<2.00	1.5	<2.00	107,000	48,000	8,600	8.65	7.68	14.3	1.5	0.12	0.58
AVJ01P27	<8.00	7	10	130	<2.00	1.5	<2.00	80,000	31,000	33,000	4.73	7.66	11.5	1.9	3.34	2.5
AVJ01P27	<40.00	<20.00	27	91	<10.00	<5.00	<10.00	147,000	104,000	128,000	7.6	7.7	10.8	0.6		<0.06
AVJ01P27	<8.00	19	40	130	<2.00	2.1	<2.00	>200,000	>200,000	50,000	6.88	7.55	11.2	5.6		2.12
AVJ01P27	<8.00	5.2	7.9	47	<2.00	<1.00	<2.00	54,000	44,000	31,000	6.94	7.51	18.7	8.8		3.87
AVJ01P27	<8.00	29	39	130	<2.00	1.5	5.3	53,000	36,000	12,600	12.2	7.5	10.6	5.1		1.31
AVJ01P27	<8.00	28	38	74	<2.00	<1.00	<2.00	148,000	69,000	13,200	7.05	8.27	7.03	5.8	<0.05	2.34
AVJ01P27	2	18	5.6	18	<0.50	1.8	<0.50	350,000	9,000	23,000	5.9	7.9	3.77	6.6	0.2	1.78
AVJ01P27	1.1	11	6	24	<0.50	0.83	<0.50	430,000	>120,000	13,000	8	7.27	4.22	6.2	0.06	2.22
AVJ01P27	2.2	15	16	42	<0.50	2.3	2.8	410,000	120,000	59,000	7.3	7.43	18.9	5.1	0.06	5.3
AVJ01P27	0.94	9.2	4.7	21	<0.50	0.72	<0.50	250,000	58,000	22,000	7.89	7.6	4.33	7.9	<0.05	2.75
AVJ01P27	<0.50	8.5	3.4	23	<0.50	0.77	<0.50	120,000	82,000	20,000	6.68	7.72	3.5	8.2	<0.05	4.27
AVJ01P27	1.6	13	7.1	26	<0.50	1.2	<0.50	73,000	47,000	4,600	9.42	7.61	3.15	7.2	0.06	2.44
AVJ01P27	0.65	8.4	7.6	27	<0.50	0.82	<0.50	150,000	600	6,800	9.1	7.7	5.48	4.8	0.15	2.36
AVJ01P27	0.63	11	4.9	32	<0.50	0.86	<0.50	160,000	70,000	28,000	6.89	7.47	4.47	6.8	0.13	3.85
AVJ01P27	0.97	8.9	5.5	46	<0.50	0.71	<0.50	46,000	11,000	7,000	6.88	7.49	7.25	7.4	0.12	7.55
AVJ01P27	<0.50	5.7	2.6	10	<0.50	<0.50	<0.50	60,000	27,000	19,000	0	7.94	19.6	5.7	0.35	3.04
AVJ01P27	1	8.1	7.1	26	<0.50	1.5	<0.50	86,000	32,000	6,700	8.63	7.62	16.1	8.6	0.08	4.81
AVJ01P27	0.9	6	5.5	19	<0.50	0.84	<0.50	64,000	3,200	1,000	8.15	7.91	6.64	7.6	0.07	3.49
AVJ01P27	0.85	7.2	6.3	51	<0.50	0.87	<0.50	730,000	120,000	230,000	6.03	7.78	15.4	4.9	0.75	3.29
AVJ01P27	0.5	4.1	1.9	4.6	<0.50	<0.50	<0.50	34,000	5,800	5,500	6.17	7.79	7.1	3.5	0.05	1.78
AVJ01P27	<0.50	4.6	1.8	5.7	<0.50	<0.50	<0.50	190,000	7,600	7,000	0	8.25	5.35	4	0.05	2.39
AVJ01P27	1.1	7.3	3.5	15	<0.50	0.87	<0.50	90,000	20,000	10,700	9.61	7.76	4.79	7.2	1.05	2.17
AVJ01P27	1.1	11	5.4	20	<0.50	1.1	<0.50	>96,000	5,200	6,800	8.16	7.91	4.77	11.5	0.1	3.15
AVJ01P27	0.71	7.4	2.9	16	<0.50	0.56	<0.50	>84,000	11,000	29,000	6.09	7.89	5.25	7.9	0.1	2.78
AVJ01P27	0.87	8.8	3.1	8.4	<0.50	0.51	<0.50	>50,000	9,000	7,400	5.36	7.51	4.24	6.1	0.12	3.03
AVJ01P27	0.73	6.9	3	8.2	<0.50	<0.50	<0.50	70,000	3,800	9,100	5.94	7.85	7.92	7.8	0.1	2.18
AVJ01P27	0.72	7.4	4.7	16	<0.50	0.69	<0.50	72,000	6,800	16,700	8.63	7.76	5.53	8	0.1	3.92
AVJ01P27											8.66	7.71	6.33	11.7	0.1	4.03
AVJ01P28	<8.00	9.1	9.8	79	<2.00	<1.00	<2.00				5.14	7.89	22.3	4.6	0.6	3.54
AVJ01P28	<8.00	7.7	19	78	<2.00	<1.00	<2.00	83,000	26,000	6,600	7.22	7.97	7.98	6.5	0.5	4.3

AVJ01P28	<8.00	6.8	8.8	44	<2.00	<1.00	<2.00	94,000	44,000	52,000	8.1	7.11	9.69	8.4	0.35	3.81
AVJ01P28	<8.00	9.5	13	54	<2.00	<1.00	<2.00	119,000	31,000	23,000	10.7	7.89	24.2	2	0.26	0.87
AVJ01P28	<8.00	7.8	9.5	49	<2.00	<1.00	<2.00	101,000	33,000	26,000	4.76	7.98	15.3	2.2	0.5	1.12
AVJ01P28																
AVJ01P28	<8.00	11	12	140	<2.00	<1.00	<2.00	181,000	104,000	48,000	3.06	7.37		5.8	0.65	3.29
AVJ01P28	<8.00	8.9	10	95	<2.00	<1.00	<2.00	>200,000	>200,000	36,000	3.95	7.56	11.1	5.4	0.4	5.34
AVJ01P28																
AVJ01P28	<8.00	10	6.5	55	<2.00	<1.00	<2.00	<200,000	76,000	<200,000	8.63	7.78	20.7	7.4	0.07	5.16
AVJ01P28	<8.00	23	58	98	<2.00	<1.00	<2.00	<200,000	<200,000	44,000	7.05	8.15	67.6	6	0.2	3.44
AVJ01P28	<8.00	9.9	17	52	<2.00	<1.00	<2.00	<200,000	<200,000	54,000	5.09	8.32	27	7.3	0.26	4.84
AVJ01P28	0.52	9.1	11	34	<0.50	0.59	<0.50	>1,200,000	>120,000	15,000	4.58	7.6	4.8	5.4	1	4.91
AVJ01P28	<0.50	11	25	34	<0.50	<0.50	<0.50	840,000	>120,000	8,000	4.51	7.19	5.4	6.3	0.1	4.07
AVJ01P28	0.57	15	6.7	30	<0.50	3.1	0.92	660,000	60,000	13,000	4.91	7.49	5.54	6.6	0.06	4.92
AVJ01P28	<0.50	8.8	6.2	24	<0.50	<0.50	<0.50	>120,000	330,000	29,000	3.62	7.52	8.71	7.2	0.17	5.73
AVJ01P28	<0.50	9.3	8	50	<0.50	0.64	<0.50	770,000	260,000	250,000	7.03	7.75	18.1	8.4	0.12	4.5
AVJ01P28	0.59	13	9.8	47	<0.50	0.83	<0.50	1,010,000	530,000	3,800	4.61	7.63	9.01	5.6	0.4	4.98
AVJ01P28	<0.50	13	8.8	45	<0.50	0.83	<0.50	1,300,000	10,000	19,000	3.55	7.5	9.76	7.2	0.4	5.6
AVJ01P28	0.92	13	9.9	56	<0.50	0.67	<0.50	1,040,000	330,000	63,000	5.6	7.45	12.9	7.8	0.13	7.75
AVJ01P28	0.71	9.2	8.9	39	<0.50	0.57	<0.50	>1,200,000	290,000	8,000	3.13	7.6	10.2	4.8	0.17	5.36
AVJ01P28	<0.50	9	7.7	26	<0.50	0.86	<0.50	770,000	76,000	15,000	0	7.72	9.8	8.9	0.25	5.03
AVJ01P28	<0.50	8.8	11	44	<0.50	0.71	<0.50	530,000	21,000	8,200	5.9	7.62	14.5	9.3	0.45	6.58
AVJ01P28	1.5	11	16	34	<0.50	0.98	<0.50	320,000	11,000	1,700	8.35	7.97	5.96	10.8	3.6	4.26
AVJ01P28	0.51	14	8.6	27	<0.50	1	<0.50	800,000	30,000	16,000	8.01	7.98	11.9	9.2	0.45	3.19
AVJ01P28	<0.50	6.8	4.1	17	<0.50	<0.50	<0.50	310,000	7,000	2,500	7.19	7.87	23.1	7.4	0.15	3.89
AVJ01P28	<0.50	8.1	4.8	20	<0.50	<0.50	<0.50	910,000	38,000	6,000	0	7.87	63.3	9.4	0.3	4.2
AVJ01P28	1.1	11	22	22	<0.50	<0.50	<0.50	2,700,000	23,000	5,800	9.39	8.03	3.86	10.1	0.4	2.19
AVJ01P28	0.84	12	7.9	31	<0.50	0.72	<0.50	280,000	19,000	10,500	8.59	7.78	29.3	7.6	0.42	4.31
AVJ01P28	<0.50	8	5.9	18	<0.50	<0.50	<0.50	930,000	37,000	2,800	8.21	7.97	2.09	6.9	0.1	2.82
AVJ01P28	<0.50	2.7	2.1	7.6	<0.50	<0.50	<0.50	1,230,000	34,000	3,400	8.28	7.82	9.43	2.1	0.22	1.13
AVJ01P28	<0.50	7.8	5.1	20	<0.50	<0.50	<0.50	1,000,000	27,000	6,200	8.59	7.85	7.45	10	0.25	3.85
AVJ01P28								180,000	20,000	5,200	7.25	7.75	18.7	10	0.21	5.8
AVJ01P28											8	7.86	11.5	8.2	0.17	3.98

Administrative Record Page No. 025257

AVJ01P33	<8.00	6.1	3	15	<2.00	<1.00	<2.00	11,000	3,000	6,100	10.3	7.97	1.49	2.4	<0.05	2
AVJ01P33	<8.00	14	11	39	<2.00	1.5	<2.00	151,000	71,000	72,000	7.17	7.48	260	4.4	<0.05	9.84
AVJ01P33	<8.00	4.2	3.3	17	<2.00	<1.00	<2.00	37,000	14,600	9,700	8.65	7.33	1.81	3.8	<0.05	1.86
AVJ01P33	<8.00	9.1	6.8	69	<2.00	<1.00	<2.00	7,900	1,240	1,630	10.2	7.7	7.34	2.6		1.97
AVJ01P33	<8.00	9.2	15	160	<2.00	<1.00	2.4	199,000	177,000	29,000	8.22	8.38	17.2	8.3	1.4	2.59
AVJ01P33	<8.00	11	8	27	<2.00	<1.00	<2.00	86,000	67,000	123,000	10.23	8.47	1.85	2.3		2.17
AVJ01P33	<0.50	9.4	2.3	10	<0.50	<0.50	<0.50	43,000	3,800	7,000	9.34	7.84	4.75	3.8	0.08	1.91
AVJ01P33	1.7	6.3	15	8.9	<0.50	<0.50	<0.50	110,000	12,000	38,000	8.82	8.34	3.39	2.3	<0.05	2.53
AVJ01P33	<0.50	12	1.2	7.2	<0.50	<0.50	<0.50	19,000	4,300	600	9.36	8.24	0.7	3.3	<0.02	1.77
AVJ01P33	0.65	20	10	52	<0.50	1.2	<0.50	NR	NR	NR	8.65	7.89	6.01	10.3	0.1	13.35
AVJ01P33	<0.50	15	12	21	<0.50	1.1	<0.50	210,000	88,000	29,000	7.46	7.81	376	6.5	0.08	5.16
AVJ01P33	1.1	16	1.7	6.4	<0.50	0.92	<0.50	210,000	5,000	7,000	8.64	8.07	0.79	5.9	0.1	1.43
AVJ01P33	0.95	6.3	4.3	4.4	<0.50	<0.50	<0.50	2,200	400	4,300	10.19	8.3	2.7	4.9	0.07	1.48
AVJ01P33	0.64	14	2.3	6.8	<0.50	0.81	<0.50	33,000	2,700	6,500	7.32	8.21	1.01	5.4	0.05	1.93
AVJ01P33	<0.50	11	1.6	3.3	<0.50	<0.50	<0.50	12,000	1,700	900	8.64	8.19	0.47	5.6	0.05	1.59
AVJ01P33	0.58	4.8	3.5	12	<0.50	<0.50	<0.50	>4,800	160	1,000	10.02	8.16	3.76	3.9	0.1	1.42
AVJ01P33	1	7.5	2.4	11	<0.50	<0.50	<0.50	26,000	700	2,500	11.67	8.09	0.47	4	0.1	1.39
AVJ01P33	0.51	9.2	6	24	<0.50	3	<0.50	>135,000	36,000	7,400	11.04	7.66	2.48	4.7	0.1	6.15
AVJ01P33	0.68	5.8	3.8	7.1	<0.50	<0.50	<0.50	47,000	320	1,170	9.86	8.13	4.23	5.9	0.1	2.17
AVJ02P05	<8.00	6.2	50	120	<2.00	<1.00	3.4	17,650	6,850	20,600	9.21	8.17	3.35	2.1	0.15	0.96
AVJ02P05	<8.00	5.6	11	42	<2.00	<1.00	<2.00	82,000	17,000	33,000	9.2	7.57	15.7	9.1	<0.05	4.2
AVJ02P05	<8.00	<4.00	22	21	<2.00	<1.00	<2.00	92,000	31,000	38,000	9.22	7.54	9.45	4.2	0.65	1.17
AVJ02P05	<8.00	9.9	13	53	<2.00	<1.00	<2.00	38,000	15,800	12,800	9.18	8.23	2.49	7.2	<0.05	1.64
AVJ02P05	<8.00	8.8	14	67	<2.00	1	<2.00	>200,000	124,000	166,000	8.52	8.2	28.2	7.8	0.2	3.75
AVJ02P05	<8.00	12	8.6	40	<2.00	<1.00	<2.00	<200,000	<200,000	164,000	9.02	7.92	6.46	10.6	0.08	4.82
AVJ02P05	1	9.7	9.4	41	<0.50	<0.50	<0.50	50,000	9,000	9,000	9.8	7.85	1.25	4.4	0.06	0.61
AVJ02P05	0.65	8.8	9.1	32	<0.50	<0.50	<0.50	280,000	60,000	11,000	8.8	7.99	4.93	7.8	0.08	3.3
AVJ02P05	1.1	8.5	9	38	<0.50	<0.50	<0.50	22,000	20,000	6,300	8.9	7.9	0.9	5.5	<0.05	0.94
AVJ02P05	0.7	10	6.8	33	<0.50	<0.50	<0.50	NR	NR	NR	9.75	8.06	1.28	5.1	<0.05	0.95
AVJ02P05	0.6	6.3	9.1	29	<0.50	<0.50	<0.50	41,000	7,300	6,600	9.14	8.06	1.28	3.7	<0.05	3.06

Administrative Record Page No. 025258

AVJ02P05	1.3	3.4	5.9	29	<0.50	<0.50	<0.50	34,000	15,000	6,000	0	7.71	1.34	6.7	<0.01	1.04
AVJ02P05	1.1	8.7	9.4	96	<0.50	1.8	<0.50	9,300	1,300	11,000	9.66	8.04	3.44	7	0.05	3.59
AVJ02P05	1.5	5.8	9.6	36	<0.50	<0.50	<0.50	26,000	4,000	500	6.67	8.09	173	8.4	0.1	2.31
AVJ02P05	0.84	6.9	5.2	19	<0.50	1.2	<0.50	200,000	410,000	48,000	9.07	8.06	5.42	9.7	0.05	3.62
AVJ02P05	0.99	5.7	3.4	30	<0.50	<0.50	<0.50	>2,600	40	160	9.44	8.22	1.41	5.2	0.11	0.99
AVJ02P05	1.4	7.8	7.6	31	<0.50	0.57	<0.50	20,000	340	1,190	11.7	8.25	3.52	10	0.21	1.92
AVJ02P05	1.3	6.4	4.4	9.8	<0.50	0.84	<0.50	>43,000	430	6,200	12.63	7.68	33.8	10.8	0.22	2.03
AVJ02P05	1	5.7	14	28	<0.50	0.63	<0.50	47,000	4,100	15,000	9.87	8.07	6.34	5.1	0.1	0.9
COL02P50	<8.00	<4.00	2.8	55	<2.00	<1.00	<2.00	4,350	3,100	2,400	8.86	7.91	2.66	0.9	<0.05	2.24
COL02P50	<8.00	<4.00	<2.00	18	<2.00	<1.00	<2.00	620	130	280	6.92	7.5	2.24	1.1	<0.05	2.22
COL02P50	<8.00	<4.00	4.8	27	<2.00	<1.00	<2.00	1,490	130	870	6.93	7.07	7.38	1.2	<0.05	2.54
COL02P50	<8.00	5	<2.00	71	<2.00	<1.00	<2.00	530	380	590	8.84	7.55	1.02	1.1	0.13	1.48
COL02P50	<8.00	280	8.9	120	<2.00	88	<2.00	16,400	6,300	11,100	8.5	7.82	10.6	4	0.1	1.24
COL02P50																
COL02P50	<8.00	8.4	<2.00	38	<2.00	<1.00	<2.00	6,300	4,200	3,100	8.91	7.31	0.89	1.1		2.76
COL02P50	<0.50	12	0.97	6.6	<0.50	<0.50	<0.50	6,000	40	50	9.1	7.16	0.45	1.5	<0.05	0.89
COL02P50	<0.50	7.9	0.54	4.8	<0.50	<0.50	<0.50	4,500	20	90	8.39	7.31	0.63	1.9	<0.05	1.76
COL02P50	<0.50	7.5	0.59	4.7	<0.50	<0.50	<0.50	30	20	<10	8.87	7.27	0.4	1.2	<0.05	1.27
COL02P50	<0.50	12	0.8	7.4	<0.50	<0.50	<0.50	3,000	210	80	8.8	7.48	0.67	2.3	0.08	1.6
COL02P50	<0.50	11	<0.50	5.6	<0.50	<0.50	<0.50	190	60	140	10.14	7.19	1.51	1.4	0.1	2.55
COL02P50	<0.50	7.1	1.1	5.8	<0.50	<0.50	<0.50	8,000	600	400	8.52	7.7	0.78	1	0.13	1.48
COL02P50	<0.50	5.8	0.76	12	<0.50	<0.50	<0.50	280	10	<10	9.18	7.54	1.41	1.1	0.05	1.32
COL02P50	<0.50	5.7	1.2	8.6	<0.50	<0.50	<0.50	570	<10	200	8.3	7.67	1.01	1.4	0.05	1.39
COL02P50	<0.50	6	1	6.8	<0.50	<0.50	<0.50	2,300	200	500	8.23	7.65	0.78	1.3	0.05	1.61
COL02P50	<0.50	9.6	3.9	15	<0.50	0.83	<0.50	33,000	50	2,300	8.22	7.41	3.21	3.8	0.1	1.56
COL02P50	<0.50	7.1	2.2	8	<0.50	0.6	<0.50	>6,300	>380	840	9.22	8.04	0.92	2.5	0.12	1.3
COL02P50	<0.50	7.8	1.6	7	<0.50	<0.50	<0.50	>6,600	640	690	7.11	7.75	1.36	3.6	0.1	1.29
COL02P50	<0.50	5.7	1.9	9.2	<0.50	<0.50	<0.50	6,900	60	140	9.1	7.47	1.25	2.5	0.1	1.01
COL02P50											9.73	7.47	0.86	2.4	0.1	1.33
COL02P55	<8.00	61	4.1	33	<2.00	16	<2.00	27,000	18,000	13,000	7.38	8.09	3.98	1.7	<0.05	0.86

Administrative Record Page No. 025259

COL02P55	<8.00	230	5.9	75	<2.00	75	<2.00	18,700	3,600	5,800	6.86	8.2	8.05	5.2	<0.05	1.15
COL02P55	<8.00	290	4.3	87	<2.00	110	<2.00	6,800	4,100	5,400	7.52	7.42	4.92	6	<0.05	0.4
COL02P55	<8.00	210	5.2	120	<2.00	68	<2.00	16,800	3,900	10,400	9.59	7.95	15.9	3.9	<0.05	2.13
COL02P55	<8.00	6.6	3.2	35	<2.00	<1.00	<2.00	1,140	630	620	8.36	7.6	0.91	0.5	0.08	1.43
COL02P55																
COL02P55	0.61	210	4.8	73	<0.50	49	<0.50	470,000	43,000	113,000	6.83	7.65	15.6	3.8	0.12	1.84
COL02P55	<0.50	75	3.9	18	<0.50	18	<0.50	440,000	200,000	28,000	8.19	7.63	13.6	4	<0.05	2.01
COL02P55	<0.50	61	3.7	22	<0.50	12	<0.50	180,000	80,000	37,000	8.4	7.27	18.8	4.1	0.06	2.62
COL02P55	0.96	220	8.9	66	<0.50	61	<0.50	550,000	110,000	9,000	8.55	7.85	8.43	6.5	0.1	1.99
COL02P55	<0.50	88	6.5	39	<0.50	11	<0.50	640,000	26,000	47,000	6	7.5	8.57	4.6	0.18	2.74
COL02P55	0.63	71	5.1	30	<0.50	5.2	<0.50	67,000	27,000	16,000	7	7.8	5.46	4.5	0.18	2.43
COL02P55	0.51	140	8.1	59	<0.50	34	<0.50	260,000	16,000	11,000	6.24	7.62	7.73	3.8	0.14	1.6
COL02P55	<0.50	100	5.6	35	<0.50	13	<0.50	63,000	28,000	7,200	6.65	7.92	18.9	6.6	0.11	1.94
COL02P55	<0.50	69	4.5	24	<0.50	3.6	<0.50	80,000	30,000	26,000	6.01	8	12.2	4.2	0.05	2.28
COL02P55	<0.50	65	7.8	34	<0.50	4.6	<0.50	>143,000	3,000	23,000	7.2	7.57	14.2	5.1	0.12	2.7
COL02P55	<0.50	93	5	36	<0.50	8.6	<0.50	>86,000	2,100	10,700	6.62	8.04	5.16	5.3	0.12	0.91
COL02P55	<0.50	71	4.5	37	<0.50	3.9	<0.50	370,000	22,000	54,000	4.88	7.73	17.2	6.6	0.23	1.72
COL02P55	<0.50	100	4.8	53	<0.50	6.2	<0.50	76,000	>2,100	5,600	5.52	7.66	7.53	7.9	0.24	0.9
COL02P55											8.78	7.78	19.5	3.9	0.1	0.94
DPK01P04								>200,000	>200,000	35,000	9	7.93	6.91	3.3		0.95
DPK01P04	<8.00	98	7.4	58	<2.00	4.7	<2.00	86,000	16,000	89,000	9.01	7.85	6.57	3.2	0.1	1.65
DPK01P04	<0.50	100	45	35	<0.50	9.3	<0.50	240,000	74,000	11,600	5.91	7.96	8.74	3.5	0.07	1.43
DPK01P04	0.57	79	7.5	28	<0.50	4.5	<0.50	22,000	3,200	3,200	9.04	7.8	19.7	5.1	0.1	1.87
DPK01P04	<0.50	82	5.1	29	<0.50	3.7	<0.50	100,000	19,000	17,000	8.71	7.89	4.79	3.8	0.12	1.85
DPK01P04	3.8	59	7.2	45	<0.50	5.1	<0.50	420,000	690	5,000	8.43	7.83	4.74	24.3	0.11	3.06
DPK01P04	<0.50	93	8.6	32	<0.50	7.1	<0.50	1,200	270	150	9.47	7.53	4.24	3.8	0.14	3.12
DPK01P04	<0.50	90	9.1	26	<0.50	8.9	<0.50	30,000	6,900	9,000	8.45	7.79	6.2	4.2	0.08	1.65
DPK01P04	<0.50	140	5	130	<0.50	12	<0.50	34,000	14,000	5,800	9.39	7.92	5.55	3.4	0.12	1.45
DPK01P04	<0.50	88	9.1	36	<0.50	6.6	<0.50	49,000	11,000	17,000	8.89	7.89	3.47	3.5	0.1	1.76
DPK01P04	0.56	72	6.7	38	<0.50	3.3	<0.50	720,000	28,000	58,000	8.68	7.93	15.3	3.7	0.15	2.03
DPK01P04	0.5	86	7.5	33	<0.50	8.6	<0.50	>22,000	3,300	6,300	8.63	7.85	17.8	3.9	0.12	2.15

DPK01P04	<0.50	93	5.7	20	<0.50	1.4	<0.50	>28,000	1,800	3,300	9.66	8.21	5.2	4.1	0.1	1.06
DPK01P04	<0.50	83	4.6	15	<0.50	1.2	<0.50	86,000	7,400	20,000	8.24	7.94	7.69	4.5	0.1	0.93
DPK01P04											10.23	7.87	4.82	4.1	0.1	1.46
DPL01S02	<8.00	180	4.6	90	<2.00	13	<2.00	69,000	18,000	8,100	7.87	7.8	3.63	4.1	0.33	0.49
DPL01S02	<8.00	170	3	66	<2.00	20	<2.00	21,000	16,000	28,000	11.17	7.27	6.9	2.1	<0.05	<0.06
DPL01S02	<8.00	140	5	71	<2.00	6.5	<2.00	126,000	57,000	8,600	8.97	7.48	4.46	4.3	<0.05	0.24
DPL01S02	<8.00	140	4.7	63	<2.00	5.3	<2.00	46,000	23,000	33,000	4.59	7.58	3.74	1.5	0.18	0.08
DPL01S02	<8.00	170	3.2	100	<2.00	13	<2.00	73,000	22,000	47,000	9.02	7.55	3.63	4.1	0.3	0.29
DPL01S02	12	190	8.4	110	<2.00	12	4.5	10,600	6,300	4,300	13.36	7.75	2.32	4.7	0.08	0.34
DPL01S02	<8.00	150	5.5	92	<2.00	8.1	<2.00	28,000	20,000	12,400	8.08	7.77	2.94	3.8		0.44
DPL01S02	<8.00	160	10	56	<2.00	9.2	<2.00	2,900	2,200	810	11.34	7.66	2.82	4.7		0.28
DPL01S02	<8.00	250	3.7	68	<2.00	26	<2.00	4,600	3,300	4,100	14.7	7.8	2.1	5		0.4
DPL01S02	<8.00	220	2.9	88	<2.00	16	<2.00	76,000	44,000	66,000	13.1	7.9	2.7	5.4	0.1	0.45
DPL01S02	0.66	400	3.8	200	<0.50	48	<0.50	49,000	5,200	1,900	8.6	7.96	1.73	8	0.25	0.33
DPL01S02	0.71	510	6.4	220	<0.50	54	<0.50	120,000	20,000	1,400	8.54	8.27	2.26	9.9	0.09	0.39
DPL01S02	1.1	460	21	230	<0.50	54	<0.50	25,000	5,000	3,200	8.05	7.59	1.36	10.5	0.06	0.37
DPL01S02	0.74	410	4.2	160	<0.50	43	<0.50	33,000	17,000	2,600	8.47	7.75	1.88	9.4	0.1	0.31
DPL01S02	1.1	480	5.6	150	<0.50	34	<0.50	190,000	74,000	7,400	8.59	7.79	2	10.1	0.1	0.24
DPL01S02	0.64	470	4.4	210	<0.50	57	<0.50	3,200	1,190	560	10.27	7.66	1.06	9	0.07	0.27
DPL01S02	0.53	340	4.5	140	<0.50	34	<0.50	33,000	10,000	9,200	8.6	7.83	3.81	7.8	0.2	0.55
DPL01S02	0.75	260	3.9	84	<0.50	23	<0.50	32,000	40	2,300	7.98	7.9	1.46	6.3	0.07	0.45
DPL01S02	0.55	230	4.4	62	<0.50	19	<0.50	33,000	4,200	3,400	9.24	7.49	0.99	7.6	0.07	0.4
DPL01S02	0.66	360	6.7	110	<0.50	35	<0.50	>1,200,000	210,000	48,000	8.81	7.61	2.24	10.3	0.13	0.39
DPL01S02	0.73	300	4.4	140	<0.50	37	<0.50	77,000	5,500	600	9	7.87	1.38	8.8	0.15	0.51
DPL01S02	0.53	280	3.9	98	<0.50	33	<0.50	3,800	300	1,200	9.26	7.81	0.87	7.9	0.06	0.4
DPL01S02	0.51	230	3.1	71	<0.50	30	<0.50	7,500	500	1,400	8.89	7.42	1.33	7.2	0.1	0.32
DPL01S02	0.6	260	3	71	<0.50	35	<0.50	32,000	5,600	3,700	10.81	7.72	3.65	9.9	0.1	0.3
DPL01S02	0.62	320	3	98	<0.50	39	<0.50	42,000	5,200	1,900	8	7.81	1.17	11.1	0.05	0.42
DPL01S02	0.59	320	9.1	130	<0.50	40	<0.50	163,000	3,600	1,110	9.28	7.72	3.02	9.7	0.12	0.23
DPL01S02	0.56	340	3.4	140	<0.50	41	<0.50	36,000	490	860	6.63	8.03	2.77	8.8	0.1	0.3
DPL01S02	0.72	400	4.1	100	<0.50	14	<0.50	49,000	5,300	8,500	7.74	7.85	2.02	8.1	0.09	0.17

Administrative Record Page No. 025261

DPL01S02	<1.00	250	3	55	<1.00	5.7	<1.00	136,000	3,100	3,500	8.45	8.09	3	7.1	0.12	0.3
DPL01S02	0.52	210	3.7	60	<0.50	11	<0.50	78,000	4,100	3,700	8.09	8.31	2.77	7.8	0.1	0.3
DPL01S02	<1.00	310	5	130	<1.00	24	<1.00	31,000	4,400	3,100	7.96	7.75	2.25	8	0.11	0.3
DPL01S02	0.54	260	5.4	93	<1.00	30	<1.00	>7,500	220	470	9.44	7.73	2.52	7.3	0.1	0.32
DPL01S03	<8.00	5	5	82	<2.00	<1.00	<2.00	61,000	14,300	1,130	11.38	8.02	2.63	7.8	0.15	0.66
DPL01S03	<8.00	8.1	7.1	23	<2.00	<1.00	<2.00	30,000	22,000	42,000	7.93	8.22	3.37	6.1	<0.05	0.62
DPL01S03	<8.00	4.5	9.4	38	<2.00	<1.00	<2.00	19,900	10,500	14,900	1.13	8.25	4.29	2.1	0.19	0.11
DPL01S03	<8.00	5.9	3.4	17	<2.00	<1.00	<2.00	44,000	14,400	14,200	9.87	8.3	4.46	8.6	0.07	0.24
DPL01S03	<8.00	9.9	7.9	35	<2.00	<1.00	2.9	1,590	860	460	7.6	8.1	0.56	8.5	0.1	0.42
DPL01S03	<8.00	11	6.5	31	<2.00	<1.00	<2.00	21,400	16,000	6,300	8.37	8.19	1.79	7.8	<0.05	0.45
DPL01S03	<8.00	11	6.7	20	<2.00	<1.00	<2.00	6,300	4,400	1,670	11.33	7.95	2.84	7.6	0.1	0.2
DPL01S03	<8.00	13	3.3	<10.00	<2.00	<1.00	<2.00	14,200	11,000	5,500	15.2	8.4	2.9	7		0.47
DPL01S03	<8.00	14	4.2	22	<2.00	<1.00	<2.00	46,000	38,000	9,950	15.9	8.55	1.41	7.1	0.2	0.4
DPL01S03	1.2	24	3.1	7.5	<0.50	<0.50	1.6	27,000	6,300	2,100	8.69	8.23	0.66	13.3	<0.05	0.55
DPL01S03	<0.50	29	3.8	4.9	<0.50	<0.50	<0.50	20,000	10,000	3,000	9.41	7.65	1.03	12.7	0.1	0.28
DPL01S03	<0.50	26	4	12	<0.50	<0.50	<0.50	22,000	9,000	3,000	9.46	7.95	2.83	12.1	<0.05	0.47
DPL01S03	<0.50	13	7.6	12	<0.50	<0.50	<0.50	19,000	14,000	5,400	8.52	8.18	4.06	12.1	0.3	0.48
DPL01S03																
DPL01S03	<0.50	13	6.5	2.3	<0.50	<0.50	<0.50	4,000	3,200	480	8.94	8.13	0.8	13.1	<0.05	0.25
DPL01S03	<0.50	23	3.1	7.4	<0.50	<0.50	<0.50	8,400	5,300	560	9.4	8.07	3.53	11.4	<0.05	0.28
DPL01S03	<0.50	15	4.3	5	<0.50	<0.50	<0.50	8,600	6,000	2,300	9.95	8.07	1.67	8.5	<0.05	0.35
DPL01S03	<0.50	19	4	4.4	<0.50	<0.50	<0.50	21,000	100	360	7.72	7.98	1.4	11.8	0.13	0.4
DPL01S03	<0.50	4.7	3.5	2	<0.50	<0.50	<0.50	9,000	7,200	1,400	9.2	7.86	1.22	12.9	0.07	0.46
DPL01S03	0.94	17	9.4	5.2	<0.50	<0.50	<0.50	13,000	10,300	5,300	9.65	7.98	0.93	5.9	<0.05	0.39
DPL01S03	<0.50	8.5	3.2	5.6	<0.50	<0.50	<0.50	8,600	3,500	2,700	9.22	8.17	1.24	12.6	0.06	0.59
DPL01S03	<0.50	5.8	3.8	4.1	<0.50	<0.50	<0.50	9,000	6,100	690	9.25	8.19	4.41	12	0.07	0.61
DPL01S03	<0.50	5	3.7	4	<0.50	<0.50	<0.50	38,000	6,300	1,300	8.52	7.93	6.85	11.1	0.08	0.46
DPL01S03	<0.50	16	4.8	7.5	<0.50	<0.50	<0.50	56,000	23,000	5,400	10.55	8.15	7.51	10.7	0.1	0.44
DPL01S03	<0.50	5.9	2.1	2.2	<0.50	<0.50	<0.50	20,000	12,000	4,300	7.1	8.06	2.76	11.3	0.05	0.22
DPL01S03	<0.50	8.6	6.6	8.1	<0.50	<0.50	<0.50	48,000	8,400	3,300	9.9	8.23	1.61	12.5	0.12	0.49
DPL01S03	<0.50	6.9	3.8	2.9	<0.50	<0.50	<0.50	29,000	4,400	4,400	8.36	8.21	0.69	10.4	0.1	0.3

DPL01S03	0.82	8.5	8.3	6.8	<0.50	<0.50	<0.50	22,000	3,900	2,200	8.7	8.26	1.23	9.4	0.16	0.49
DPL01S03	<1.00	8	4.3	4.3	<1.00	<1.00	<1.00	>930,000	22,000	3,200	9.8	8.19	0.81	10.4	0.33	0.2
DPL01S03	<0.50	4.7	4.3	5.6	<0.50	<0.50	<0.50	32,000	7,000	4,900	9	8.12	3.02	14.3	0.1	0.59
DPL01S03	<0.50	4.3	6.1	6.6	<0.50	<0.50	<1.00	21,000	3,600	740	10.36	8.2	3.76	18.3	0.1	0.32
DPL01S03	<0.50	3.8	7.4	8.2	<0.50	<0.50	<1.00	5,200	350	220	11.73	8.08	2.88	8.3	0.1	0.38
DPL01SCWD	<0.50	130	5.1	28	<0.50	9.8	<0.50	550,000	>120,000	58,000	5.59	7.14	3.14	4.8	0.15	1.33
DPL01SCWD	<0.50	97	3.8	13	<0.50	12	<0.50	42,000	13,000	1,500	5.24	7.27	2.25	2.2	<0.05	0.93
DPL01SCWD	0.64	47	5.8	10	<0.50	3.7	<0.50	2,500	2,100	560	16.96	9.42	3.33	0.9	<0.05	0.08
DPL01SCWD	<0.50	59	6.5	8	<0.50	3.8	<0.50	22,000	9,000	2,700	7.8	7.79	6.46	4.6	0.06	2.73
DPL01SCWD	<0.50	63	4.9	13	<0.50	6.4	<0.50	260,000	113,000	7,200	6.3	8.31	3.6	2.8	<0.05	0.99
DPL01SCWD	0.53	230	4.4	39	<0.50	24	<0.50	25,000	14,000	450	6.75	7.55	2.18	3.7	0.07	0.6
DPL01SCWD	16	130	6.6	22	<0.50	16	<0.50	25,000	40	1,000	4.8	7.59	3.15	5.1	<0.05	0.94
DPL01SCWD	0.83	64	6.6	16	<0.50	5.6	<0.50	360,000	4,200	1,500	14.31	8.42	3.31	1.8	0.17	1.04
DPL01SCWD	<0.50	57	4.5	14	<0.50	2.7	<0.50	210,000	50,000	38,000		7.35	11.4	1.9	0.08	0.92
DPL01SCWD	<0.50	41	3.8	14	<0.50	2.6	<0.50	130,000	28,000	8,000	9.61	7.98	7.7	2.2	<0.05	0.85
DPL01SCWD	<0.50	96	4.4	25	<0.50	12	<0.50	29,000	2,700	3,600	3.03	7.93	2.01	3.9	1	0.69
DPL01SCWD	<0.50	87	3	20	<0.50	7.5	<0.50	31,000	1,200	3,100	7.85	7.85	2.76	2	0.07	0.95
DPL01SCWD	<0.50	85	3.1	17	<0.50	7.6	<0.50	160,000	6,100	16,000	0.2	7.87	1.92	2.8	0.06	1.62
DPL01SCWD	0.5	94	1.9	9.5	<0.50	1.6	<0.50	4,600	900	600	8.5	7.87	1.03	2.8	0.05	1.14
DPL01SCWD	<0.50	79	3.1	25	<0.50	6.8	<0.50	40,000	5,200	2,700	5.02	8	3.83	3.6	0.05	1.12
DPL01SCWD	<0.50	68	4.1	16	<0.50	6.5	<0.50	220,000	5,800	7,900	10.38	8.2	3.22	2.3	0.1	0.63
DPL01SCWD	0.56	89	4.5	24	<0.50	7.6	<0.50	89,000	8,000	5,600	13.23	8.18	4.39	2.6	0.22	0.84
DPL01SCWD	<0.50	76	5.2	12	<0.50	6.9	<0.50	>74,000	7,000	150	13.49	8.11	2.82	2.6	0.1	0.91
DPL01SCWD	<1.00	100	7.4	20	<0.50	8	<0.50	750,000	78,000	32,000	9.86	7.79	2.19	3.7	0.1	1.31
DPL01SCWD	<1.00	130	4.6	40	<1.00	20	<0.50	36,000	5,800	7,600	11.63	8.05	1.95	2.7	0.1	0.92
DPL01SCWD	<0.50	51	6.1	9.2	<0.50	3.6	<0.50	>183,000	>910	1,600	13.14	8.33	2.18	2	0.1	0.84
DPL01SCWD	<0.50	68	4.2	11	<0.50	8.1	<1.00	31,000	910	4,600	11.57	8.11	2.89	3.2	0.1	0.62
DPL01SCWD											9.81	8.07	1.41	2.3	0.1	0.76
DPM00P01	<8.00	130	12	79	<2.00	14	<2.00	14,000	12,400	11,400	9.46	7.71	56.5	3	0.17	2.74
DPM00P01	<8.00	160	14	84	<2.00	16	<2.00	12,200	2,350	6,100	9.53	7.76	10.2	3.1	<0.05	0.51

DPM00P01	<8.00	120	13	57	<2.00	14	<2.00	3,500	2,800	3,900	10.96	7.73	3.57	1.9	0.3	0.4
DPM00P01	<8.00	160	9.4	86	<2.00	15	<2.00	7,300	5,200	7,200	10.34	8.03	6.68	3	0.22	0.61
DPM00P01	<8.00	130	5.5	62	<2.00	12	<2.00	48,000	26,000	26,000	8.71	7.85	5.01	2.5	0.08	1.04
DPM00P01	<8.00	110	12	51	<2.00	9	<2.00	42,000	35,000	9,700	10.26	8.01	9.42	1.9		0.99
DPM00P01	<0.50	120	7.8	41	<0.50	11	<0.50	200,000	17,000	1,600	9.15	7.43	2.6	3.8	<0.05	0.62
DPM00P01	<0.50	110	5.3	31	<0.50	8.3	<0.50	12,100	6,000	1,300	9.35	7.82	3.61	6.1	<0.04	0.86
DPM00P01	<0.50	130	5.4	40	<0.50	13	<0.50	14,000	11,000	900	9.55	7.82	3.3	5.1	<0.05	0.64
DPM00P01	<0.50	130	6.7	42	<0.50	11	<0.50	110,000	2,200	6,000	10.51	7.8	11.3	3.6	0.2	0.84
DPM00P01	<0.50	100	6.7	34	<0.50	8.3	<0.50	50,000	2,300	7,000	9.24	7.67	5.41	4.5	0.12	0.82
DPM00P01	<0.50	120	6.8	34	<0.50	9.5	<0.50	21,000	9,300	9,100	9.5	7.86	5.26	3.2	0.06	0.7
DPM00P01	<0.50	100	7.7	41	<0.50	11	<0.50	3,600	1,100	1,400	9.41	7.94	204	3.8	0.07	0.92
DPM00P01	<0.50	140	5.3	50	<0.50	15	<0.50	53,000	4,400	9,400	7.17	7.78	13.6	5.1	0.08	1.11
DPM00P01	<0.50	79	5.1	29	<0.50	8.4	<0.50	380,000	89,000	>120,000	9.69	7.98	9.93	5	0.05	0.79
DPM00P01	<1.00	73	7.6	31	<0.50	5.2	<0.50	41,000	1,300	2,400	10.36	8.01	5.42	2.4	0.12	0.06
DPM00P01	<0.50	72	5.9	32	<1.00	6.8	<1.00	58,000	12,700	30,000	8.45	7.83	8.25	4.8	0.11	1.12
DPM00P01	<0.50	77	5.2	26	<0.50	6.1	<0.50	>85,000	17,000	24,000	20.19	7.77	7.37	3.1	0.18	0.59
DPM00P01											9.55	7.87	7.11	2.2	0.1	0.4
DPM00P05	<8.00	20	11	32	<2.00	<1.00	<2.00	1,700	265	2,500	23.65	9.01	3.14	0.3	0.14	0.21
DPM00P05	<8.00	15	8.7	51	<2.00	<1.00	<2.00	6,550	1,300	1,400	8.56	8.64	4.37	2.8	<0.05	0.44
DPM00P05	<8.00	10	9.3	13	<2.00	<1.00	<2.00	17,000	14,000	2,900		9.07	2.34	1.8	0.2	<0.06
DPM00P05																
DPM00P05	<8.00	18	3.7	42	<2.00	<1.00	<2.00	9,100	7,800	3,500	7.98	7.41	7.05	1.6	0.12	0.89
DPM00P05																
DPM00P05	<0.50	19	6.6	7.4	<0.50	<0.50	<0.50	17,000	600	1,600	16.82	8.22	1.67	1.6	0.09	0.29
DPM00P05	<0.50	21	6.1	8.1	<0.50	<0.50	<0.50	57,000	7,400	1,000	11.38	7.9	2.2	1.2	<0.03	0.39
DPM00P05	<0.50	19	2.7	7.4	<0.50	<0.50	<0.50	14,000	6,000	700	10.68	8.02	3.27	1.2	<0.05	0.59
DPM00P05	<0.50	25	4.9	11	<0.50	<0.50	<0.50	3,000	110	100	6.86	7.8	1.08	1.3	<0.05	0.27
DPM00P05	<0.50	20	3.8	5.4	<0.50	<0.50	<0.50	640	10	60	8.96	7.45	0.96	1	0.2	0.32
DPM00P05	<0.50	16	3.7	5.1	<0.50	<0.50	<0.50	6,300	3,700	1,800	9.74	7.8	0.56	1.4	0.14	0.29
DPM00P05	<0.50	12	11	5.1	<0.50	<0.50	<0.50	3,200	600	400	11.74	8.41	1.22	1.9	0.08	0.23
DPM00P05	<0.50	8.3	8.7	2.8	<0.50	<0.50	<0.50	6,000	<10	320	5.78	8.76	1.17	3.9	0.07	0.3

DPM00P05	<0.50	11	2.3	2.2	<0.50	<0.50	<0.50	19,000	4,700	4,300	10.13	8.05	2.32	1.3	0.07	0.25
DPM00P05	<1.00	24	7.6	5	<0.50	<0.50	<0.50	>560	100	170	12.3	8.29	2.85	2	0.13	0.3
DPM00P05	<0.50	11	2.6	5.9	<1.00	<1.00	<1.00	7,700	2,300	2,800	9.03	7.88	6.07	2.1	0.1	0.3
DPM00P05	<0.50	12	4.2	<2.00	<0.50	<0.50	<0.50	>15,000	20	20	16.11	8.11	12.7	2	0.1	0.3
DPM00P05	<0.50	13	9	5.9	<0.50	<0.50	<2.00	1,700	720	1,340	10.33	7.99	2.23	4.8	0.1	0.3
LBBLULGN	<0.50	5.2	3.3	3.6	<0.50	<0.50	<1.00	37,000	110	580	9.92	8.02	3.66	2	0.1	0.3
LBBLULGN	<0.50	3.5	4.3	2.5	<1.00	<1.00	<1.00	34,000	30	2,200	12.5	8.01	3.1	2	0.15	0.3
LBJ00P02	<8.00	13	4.9	29	<2.00	<1.00	<2.00	320	10	220	10.64	8.65	0.54	1.4	<0.05	0.5
LBJ00P02								630	630	2,410	10.3	8.05	2.1	1.5	<0.05	0.8
LBJ00P02	<8.00	13	6	27	<2.00	<1.00	<2.00	690	130	560	9.43	7.34	18.2	1.4	<0.05	0.72
LBJ00P02	<8.00	13	4.7	30	<2.00	<1.00	<2.00	30	10	20	9.89	8.25	0.34	1.4	<0.05	0.25
LBJ00P02	<8.00	11	3.9	26	<2.00	<1.00	<2.00	360	170	90	9.33	8.16	0.91	2.3		0.47
LBJ00P02	<8.00	11	<2.00	11	<2.00	<1.00	<2.00	1,620	310	350	7.17	7.76	10.3	0.7	0.1	0.7
LBJ00P02	0.67	15	3	16	<0.50	<0.50	<0.50	170	140	480	9.7	7.62	0.44	1.8	<0.05	0.36
LBJ00P02	0.56	14	2.3	10	<0.50	<0.50	<0.50	9,000	1,600	100	10.1	7.88	0.3	1.7	0.06	0.6
LBJ00P02	<0.50	14	2	6	<0.50	<0.50	<0.50	4,200	310	200	9.48	8.05	0.25	1.5	<0.05	0.51
LBJ00P02	0.52	15	2.5	7.2	<0.50	<0.50	<0.50	270	<10	10	9.65	8.12	0.19	1.8	<0.05	0.48
LBJ00P02	0.61	14	2.5	12	<0.50	<0.50	<0.50	16,000	6,000	9,000	10.09	7.93	0.19	0.8	0.1	0.4
LBJ00P02	0.61	12	3.8	7.1	<0.50	<0.50	<0.50	10,000	1,000	2,000	9.1	7.96	0.15	1.9	<0.05	0.49
LBJ00P02	<0.50	7.8	2.4	6.7	<0.50	<0.50	<0.50	2,400	2,000	100	11.39	8.22	0.7	0.9	0.09	0.63
LBJ00P02	1.9	8.2	2.4	12	<0.50	<0.50	<0.50	50,000	7,000	2,600	9.54	8.12	0.68	2.5	0.05	0.56
LBJ00P02	<0.50	6.5	1.5	27	<0.50	<0.50	<0.50	11,000	<10	200	10.3	8.15	0.54	0.8	0.05	0.58
LBJ00P02	<0.50	7.4	2.6	9	<0.50	<0.50	<0.50	>750	140	240	10.35	8.12	0.52	2.2	0.1	0.3
LBJ00P02	0.61	4.7	2.8	6.9	<0.50	<0.50	<0.50	2,700	9	490	10.55	8.34	0.3	2	0.1	0.34
LBJ00P02	0.61	4.4	2.9	8	<0.50	<0.50	<0.50	5,200	220	530	8.95	8.23	0.42	2	0.1	0.3
LBJ00P02											10.87	8.13	1.34	2	0.1	0.3
LBLCWI02	<0.50	2.5	2.3	4.7	<0.50	<0.50	<0.50	690	200	750	12.03	8.25	0.31	2	0.1	0.3
LBLCWI02	<0.50	2.6	3.4	3.5	<0.50	<0.50	<0.50	>5,800	200	2,500	11.07	8.14	0.63	2	0.1	0.3

Administrative Record Page No. 025265

LFJ01P01	<0.50	8.4	3.7	8.1	<0.50	<0.50	<0.50	140,000	10,000	7,400	8.53	7.5	0.58	8.7	<0.05	1.07
LFJ01P01	<0.50	15	3.7	14	<0.50	<0.50	<0.50	23,000	11,000	2,200	8.34	7.44	0.84	10.3	0.1	1.2
LFJ01P01	<0.50	8.5	2.2	6.2	<0.50	<0.50	<0.50	57,000	22,000	9,800	7.31	7.8	1.18	11.5	<0.05	1.08
LFJ01P01	<0.50	7.6	1.6	5.3	<0.50	<0.50	<0.50	86,000	16,000	7,900	6.16	7.76	2	10.1	<0.05	1.29
LFJ01P01	1.2	12	22	65	<0.50	<0.50	<0.50	110,000	12,000	11,000	5.26	8.01	5.1	11.9	0.16	1.14
LFJ01P01	<0.50	13	3.8	13	<0.50	<0.50	<0.50	6,700	3,300	2,500	12.35	7.86	3.64	9.7	<0.05	0.98
LFJ01P01	<0.50	3.5	2.6	12	<0.50	<0.50	<0.50	30,000	13,000	2,700	8.5	7.89	0.9	9.8	<0.05	1.2
LFJ01P01	<0.50	11	3.2	15	<0.50	<0.50	<0.50	49,000	44,000	7,000	7.65	7.68	1.49	8.1	<0.05	1.19
LFJ01P01	<0.50	2.7	4	15	<0.50	<0.50	<0.50	53,000	25,000	7,700	8.84	7.73	1.23	8	<0.05	0.9
LFJ01P01	<0.50	4.2	4.2	9.1	<0.50	<0.50	<0.50	97,000	33,000	39,000	7.14	7.98	5.94	8.5	0.08	1.21
LFJ01P01	0.64	2.3	6.3	8.2	<0.50	<0.50	<0.50	24,000	3,200	3,700	8.13	7.99	2.09	9.5	0.05	1.33
LFJ01P01	<0.50	2.1	1.6	6.3	<0.50	<0.50	<0.50	49,000	10,000	10,800	6.9	7.91	1.16	9.2	0.05	1.31
LFJ01P01	0.64	2.5	2.5	10	<0.50	<0.50	<0.50	50,000	13,000	7,000	7.67	7.89	1.46	9.1	0.37	1.97
LFJ01P01	<0.50	2.9	2.1	2.9	<0.50	<0.50	<0.50	39,000	16,000	20,000	7.39	8.01	2.85	8.1	0.05	1.37
LFJ01P01	<0.50	2.4	1.1	5.6	<0.50	<0.50	<0.50	41,000	63,000	3,800	6.29	7.8	2.95	10	0.1	2.16
LFJ01P01	0.53	4.2	3.1	10	<0.50	<0.50	<0.50	>30,000	10,000	44,000	9.04	8.11	2.57	11.6	0.1	2.15
LFJ01P01	<0.50	3.2	4.8	6.3	<0.50	<0.50	<0.50	34,000	7,400	4,600	8.26	8.09	0.96	9.2	0.11	1.02
LFJ01P01	<0.50	4	1.4	6.4	<0.50	<0.50	<0.50	19,000	6,700	3,400	8.17	8.02	1.31	8.1	0.1	1.23
LFJ01P01	<0.50	4.2	2.1	5.1	<0.50	<0.50	<0.50	27,000	12,000	6,300	7.48	7.74	1.41	7.8	0.1	1.38
LFJ01P01	<0.50	2.1	0.95	3.5	<0.50	<0.50	<0.50	61,000	14,000	4,100	8.01	7.7	0.94	10.1	0.1	1.37
LFJ01P01	<0.50	2	3.1	7.7	<0.50	<0.50	<0.50	>9,400	6,700	3,600	8.84	8.02	1.74	9.1	0.1	1.42
LFJ01P01	<0.50	1.7	1.8	5.8	<0.50	<0.50	<0.50	23,000	420	1,900	8.64	7.97	3.5	9.4	0.1	1.84
LFJ01P05	<8.00	9.2	23	65	<2.00	<1.00	2				7.83	8.25	12.2	0.5	1.3	4.47
LFJ01P05	<8.00	7.2	7.9	57	<2.00	<1.00	<2.00	3,600	1,800	5,400	9.13	7.31	14.6	0.4	1.6	3.98
LFJ01P05	<8.00	5.1	8	39	<2.00	<1.00	<2.00	34,000	21,000	110	8.39	7.61	5.47	1.1	0.25	3.24
LFJ01P05	<8.00	9.6	12	64	<2.00	<1.00	<2.00	46,000	5,000	470	8.83	8.11	10.4	0.9	0.35	1.41
LFJ01P05	<8.00	<4.00	4.5	34	<2.00	<1.00	<2.00	7,800	810	880	3.07	8.23	4.24	3.1	0.18	1.83
LFJ01P05																
LFJ01P05	<8.00	8.7	13	72	<2.00	<1.00	2.1	7,900	6,200	2,500	8	8.3	14.8	2.9	0.5	2.62
LFJ01P05																
LFJ01P05	<8.00	6.3	8.8	44	<2.00	<1.00	<2.00	59,000	44,000	5,900	8.27	8.15	8.2	1.7	0.2	2.33

Administrative Record Page No. 025266

LFJ01P05																
LFJ01P05	0.58	9.6	11	42	<0.50	<0.50	0.51	220,000	32,000	6,600	9.25	7.51	7.43	1.6	0.15	2.01
LFJ01P05	<0.50	5.8	5.9	47	<0.50	<0.50	0.56	410,000	140,000	14,000	8.1	8.03	1.91	1.9	0.22	1.87
LFJ01P05	<0.50	2.8	5.1	27	<0.50	<0.50	1.5	62,000	18,000	560	7.8	8.31	9.4	2.4	<0.05	0.63
LFJ01P05	0.52	5.4	11	45	<0.50	<0.50	0.79	830,000	42,000	19,000	13.79	8.01	8.77	2.7	<0.05	3.89
LFJ01P05	<0.50	12	3.5	15	<0.50	<0.50	<0.50	67,000	16,000	4,100	9.09	8.32	2.95	2	0.15	0.47
LFJ01P05	<0.50	4.6	5.4	41	<0.50	<0.50	0.52	>1,200,000	520,000	12,000	8.07	8.11	3.72	0.8	0.1	0.64
LFJ01P05	1.9	16	44	180	<0.50	<0.50	1.3	60,000	50,000	3,000	7.86	7.81	83.2	2.1	2.72	1.48
LFJ01P05	1.3	4.6	18	24	<0.50	<0.50	<0.50	380,000	52,000	10,200	8.93	8.35	4.56	1.3	0.15	3.33
LFJ01P05	0.84	4.2	17	52	<0.50	<0.50	1.6	240,000	22,000	29,000	8.75	8.36	5.9	1.3	0.1	11.68
LFJ01P05	9.1	8.9	27	50	<0.50	<0.50	1.2	420,000	10,000	120,000	7.46	8.12	6.99	1.7	0.36	2.74
LFJ01P05	0.79	4.2	15	120	<0.50	<0.50	3.1	840,000	44,000	17,000	8.62	8.29	7.13	2	0.15	4.18
LFJ01P05	1.2	12	13	80	<0.50	<0.50	0.82	>1,200,000	81,000	23,000	8.46	8.08	13.9	1.8	0.05	3.95
LFJ01P05	0.55	5.4	8	38	<0.50	<0.50	<0.50	46,000	22,000	2,600	9.25	8.13	5.34	3	0.15	2.16
LFJ01P05	0.82	6.3	10	42	<0.50	<0.50	0.62	64,000	1,320	3,600	9.45	8.33	3.65	2	0.45	1.29
LFJ01P05	0.67	5.1	15	84	<0.50	<0.50	0.7	340,000	35,000	47,000	9.83	8.24	7.88	2	0.1	3.23
LFJ01P05	0.82	5.2	12	55	<0.50	<0.50	0.69	>640,000	41,000	14,400	9.26	8.15	8.02	2	0.1	1.84
LFJ01P05	1.1	8.8	21	220	<0.50	0.63	4	>10,000,000	82,000	540,000	8.64	7.96	7.63	2	0.35	6.58
LFJ01P05	<0.50	2.8	4	18	<0.50	<0.50	<0.50	780,000	29,000	26,000	8.93	7.48	4.45	4	0.25	1.81
LFJ01P05	0.62	2.8	9.7	27	<0.50	<0.50	<0.50	3,900,000	80,000	11,100	8.61	8.13	15	2.6	0.16	1.47
LFJ01P05	<0.50	3	8.7	40	<0.50	<0.50	<0.50	8,000	130	2,500	11.51	8.3	4.96	2	0.16	0.9
LFJ01P05@RR	<0.50	5.4	3.3	13	<0.50	<0.50	<0.50	2,100,000	14,000	28,000	9.71	8.17	9.06	2	6.5	0.85
LFJ01P05@RR	<0.50	5.8	10	32	<0.50	<0.50	2	320,000	3,100	13,000	9.64	8.23	3.76	2	6	1.55
LFJ01P05@RR	<0.50	2.6	3.1	15	<0.50	<0.50	<0.50	>7,300	2,500	2,600	8.95	8.63	9.74	2	0.33	0.5
LFJ01P05@RR																
LFJ01P05@RR																
LFJ01P05@RR																
LFJ01P05@RR																
LFJ01P05@RR																
LFJ01P08	<8.00	8.6	15	78	<2.00	3.3	<2.00	39,000	16,000	36,750	7.7	8.1	5.68	2.6	0.15	5.42

Administrative Record Page No. 025267

LFJ01P08	<8.00	6.2	8.9	29	<2.00	2.9	<2.00	38,000	16,000	55,000	6.3	6.65	3.1	2	0.1	1.29
LFJ01P08	<8.00	6.2	6.7	30	<2.00	3.3	<2.00	88,000	14,000	1,540	8.89	7.43	3.81	1.9	<0.05	1.83
LFJ01P08	<8.00	4	6.8	44	<2.00	2.3	<2.00	NR	NR	NR	8.88	8	3.18	2	0.43	1.49
LFJ01P08	<8.00	5.4	8.2	29	<2.00	1.3	<2.00	65,000	56,000	43,000	8.99	8	5.73	1.4	1.7	1.19
LFJ01P08	<8.00	7.6	7	34	<2.00	1.8	<2.00	101,000	38,000	79,000	7.63	7.91	13.6	2.2	0.1	1.5
LFJ01P08	<0.50	12	6.2	8.9	<0.50	3.6	<0.50	100,000	29,000	4,500	9.47	7.61	1.14	1.6	0.09	0.78
LFJ01P08																
LFJ01P08	1.2	9.1	7	14	<0.50	1.8	<0.50	160,000	37,000	24,000	8.97	8.22	5.33	0.9	0.13	1.41
LFJ01P08	<0.50	12	5.7	24	<0.50	1.8	<0.50	300,000	90,000	>120,000	7.76	7.97	4.13	3.9	0.13	1.65
LFJ01P08	<0.50	8.8	3.8	5.6	<0.50	0.86	<0.50	210,000	26,000	21,000	6.94	8.02	6.3	1.4	0.07	1.21
LFJ01P08	<0.50	12	3.8	11	<0.50	2.1	<0.50	190,000	21,000	10,000	7.71	7.96	2.2	1.5	<0.05	0.96
LFJ01P08	43	12	10	3.6	<0.50	0.98	<0.50	340,000	60,000	52,000	8.52	9.02	10.7	0.9	0.13	0.36
LFJ01P08	1.3	6.3	8.6	14	<0.50	1.6	<0.50	69,000	68,000	11,000	7.73	7.83	1.81	1.7	0.8	1.03
LFJ01P08	0.75	11	5	8.3	<0.50	1.4	<0.50	44,000	25,000	8,000	7.63	7.76	2.27	1.6	0.11	2.37
LFJ01P08	0.61	4.7	8.3	9.3	<0.50	1.4	<0.50	30,000	29,000	13,000	8.53	8.09	7.1	1	0.1	1.5
LFJ01P08	0.61	4.6	6.3	20	<0.50	1.2	<0.50	160,000	32,000	25,000	7.86	8.01	10.5	0.9	0.4	1.08
LFJ01P08	<0.50	3.8	3.6	8.3	<0.50	0.69	<0.50	37,000	6,400	3,100	9.37	8.15	5.01	2	0.1	1.58
LFJ01P08	0.74	6.4	12	26	<0.50	1.4	<0.50	190,000	>44,000	8,700	8.42	8.14	4.04	2.9	0.45	2.21
LFJ01P08	<0.50	7.5	4.3	8.1	<0.50	0.75	<0.50	>91,000	18,000	10,600	8.47	8.07	4.21	2.8	0.1	0.87
LFJ01P08	0.67	5.7	2.7	7.9	<0.50	1.1	<0.50	800,000	61,000	9,500	12.11	8.09	3.11	2.3	0.3	1.23
LFJ01P08											9.47	8.17	2.79	2	0.12	1.09
LHJ04P04	<8.00	5.4	4.8	32	<2.00	<1.00	<2.00	8,500	1,800	6,900	8.79	7.76	2.51	1.7	0.1	0.91
LHJ04P04	<8.00	<4.00	6.7	16	<2.00	<1.00	<2.00	129,000	21,000	6,400	6.33	7.56	12.3	2.2	0.08	2.69
LHJ04P04	<8.00	<4.00	5.6	23	<2.00	<1.00	<2.00	43,000	21,000	32,000	7.82	7.21	4.07	2.2	<0.05	1.73
LHJ04P04	<8.00	9.4	6.2	45	<2.00	<1.00	<2.00	41,000	12,400	12,200	8.14	7.77	2.58	1.8	0.09	0.82
LHJ04P04	<8.00	7.7	5.2	51	<2.00	<1.00	4.9	59,000	27,000	9,250	7.54	7.8	3.77	2.8	0.1	1.21
LHJ04P04	<8.00	11	6	17	<2.00	<1.00	<2.00	59,000	45,000	26,000	8.45	7.35	15.3	2.5	0.09	1.19
LHJ04P04	1.2	15	4.1	6.9	<0.50	2.7	<0.50	22,000	900	5,400	10.96	7.61	1.93	2.6	0	0.96
LHJ04P04	<0.50	20	9.2	11	<0.50	<0.50	<0.50	690,000	83,000	22,000	8.85	7.31	3.58	1.6	0.08	0.93
LHJ04P04	1	18	6.2	15	<0.50	0.63	<0.50	190,000	29,000	11,000	8.49	7.56	6.28	2.8	0.07	1.17
LHJ04P04	<0.50	14	4.2	9.6	<0.50	<0.50	<0.50	230,000	140,000	15,000	8.31	7.82	2.48	2.3	0.08	1.24

LHJ04P04	<0.50	18	4	9.3	<0.50	<0.50	<0.50	130,000	68,000	7,400	8.3	7.5	2.1	2.3	<0.05	0.97
LHJ04P04	<0.50	18	3	11	<0.50	<0.50	<0.50	42,000	7,800	5,600	12.04	7.67	2.87	2.8	<0.05	1.39
LHJ04P04	0.72	9.9	14	48	<0.50	<0.50	2.6	400,000	20,000	16,000	8.9	7.68	14.4	2.3	0.2	1.09
LHJ04P04	0.66	5.9	11	26	<0.50	<0.50	<0.50	210,000	17,000	15,000	8.24	7.74	7.62	3.4	0.15	1.23
LHJ04P04	<0.50	3.9	4.9	8.2	<0.50	<0.50	<0.50	240,000	95,000	19,000	7.3	6.83	4.27	2.6	0.07	1.16
LHJ04P04	<0.50	8.2	3.7	7.4	<0.50	0.57	<0.50	260,000	100,000	8,100	11.98	7.65	3.77	3.2	0.12	1.48
LHJ04P04	<0.50	4.1	3.8	12	<0.50	0.64	<0.50	4,400	900	320	9.23	7.88	1.39	2.7	0.1	0.72
LHJ04P04	<0.50	5.3	4	6.4	<0.50	0.5	<0.50	33,000	5,700	8,900	8.7	7.78	1.77	2.8	0.06	1.14
LHJ04P04	<0.50	3.8	3.5	6.1	<0.50	<0.50	<0.50	47,000	16,000	13,000	8.19	7.91	3.05	2.7	0.05	1.82
LHJ04P04	<0.50	3.9	3.4	4.2	<0.50	<0.50	<0.50	31,000	26,000	15,000	8.35	7.83	3.5	2.2	0.15	1.2
LHJ04P04	<0.50	3.2	3.1	5.6	<0.50	<0.50	<0.50	200,000	37,000	45,000	8.85	7.86	4.35	1.2	0.05	1
LHJ04P04	<0.50	5.4	4.2	8.2	<0.50	<0.50	<0.50	>41,000	3,800	14,400	9.08	7.85	5.03	3.5	0.12	1.21
LHJ04P04	<0.50	5.1	3.4	6.6	<0.50	<0.50	<0.50	31,000	2,000	10,200			3.85	2.1	0.1	0.97
LHJ04P04	<0.50	5.6	3.7	9.5	<0.50	<0.50	<0.50	60,000	24,000	5,700	7.94	7.82	4.48	2	0.18	0.97
LHJ04P04	<0.50	5.2	3.7	5.5	<0.50	<0.50	<0.50	>55,000	18,000	28,000	9.9	7.92	2.21	2.6	0.1	0.76
LHJ04P04	<0.50	3	3	6.8	<0.50	<0.50	<0.50	78,000	28,000	25,000	8.22	7.73	10.1	2.6	0.1	1.31
LHJ04P04	<0.50	6.2	2.7	3.9	<0.50	<0.50	<0.50	23,000	2,900	4,800	9.55	7.87	6.3	2.5	0.1	0.78
LHJ04P04											9.93	7.84	10.8	2	0.1	0.85
LHJ05P01	<0.50	180	3.7	19	<0.50	17	<0.50	2,200	2,000	2,200	6.53	7.04	5.94	3.9	0.14	1.07
LHJ05P01	<0.50	180	3.9	16	<0.50	7.5	<0.50	180,000	7,000	7,000	5.89	7.22	5.52	3.9	0.18	1.93
LHJ05P01	<0.50	89	3.4	27	<0.50	3.5	<0.50	130,000	90,000	44,000	3.58	6.81	6.85	4.5	0.08	2.06
LHJ05P01	<0.50	120	2.8	15	<0.50	5.1	<0.50	310,000	110,000	1,130,000	6.78	6.81	2.9	2.3	0.11	2.14
LHJ05P01	<0.50	120	4.6	14	<0.50	3.8	<0.50	330,000	70,000	86,000	4.5	7.66	3.97	3.7	0.06	2.45
LHJ05P01	<0.50	170	2.8	7.5	<0.50	4.9	<0.50	14,000	6,000	15,000	4.8	6.88	0.36	3	0.05	0.78
LHJ05P01	<0.50	94	5.1	23	<0.50	7	<0.50	>1,200,000	>1,200,000	20,000	5.76	7.26	3.85	4.1	0.12	6.78
LHJ05P01	<0.50	87	2.7	12	<0.50	3.6	<0.50	170,000	50,000	10,700	5.73	7.2	4.55	3	0.2	2.27
LHJ05P01	<0.50	55	2.6	8.1	<0.50	2.5	<0.50	40,000	10,000	10,800	4.71	6.97	3.05	1.9	0.07	1.42
LHJ05P01	<0.50	88	2.5	13	<0.50	3.5	<0.50	230,000	28,000	28,000	3.83	7.58	5.62	4	0.12	2.62
LHJ05P01	<0.50	91	7.5	20	<0.50	7	<0.50	150,000	12,600	66,000	7.2	7.25	3.77	3.88	0.1	5.49
LHJ05P01	<0.50	140	1.8	4.8	<0.50	3.5	<0.50	53,000	800	42,000	2.36	7.14	3.37	2.5	0.1	0.87
LHJ05P01	<0.50	55	2.5	6	<0.50	2	<0.50	>93,000	16,000	41,000	4.82	7.54	2.19	2	0.1	1.54

LHJ05P01	<0.50	97	1.4	5.1	<0.50	2.3	<0.50	>55,000	5,800	10,800	4.93	7.65	5.04	3	0.1	0.99
LHJ05P01	<0.50	80	2	8.4	<0.50	3.3	<0.50	>107,000	18,000	24,000	4.82	6.82	4.28	3.1	0.1	1.66
LHJ05P01	<1.00	150	2.3	40	<1.00	3.9	<1.00	>11,900	690	2,600	4.29	6.93	1.81	2.8	0.1	0.61
LHJ05P01	<0.50	150	3	4.8	<0.50	6.3	<0.50	6,500	120	2,300	6.27	6.9	0.53	2	0.1	0.59
LHL04TBN1	<0.50	5.4	4.3	34	<0.50	<0.50	<0.50	12,000	5,000	1,000	8.7	7.65	1.7	1.6	0.06	0.94
LHL04TBN1	1.1	14	19	1200	<0.50	1.8	7.1	200,000	23,000	8,500	9.16	7.68	3.19	1.6	0.35	10.85
LHL04TBN1	<0.50	3	3	23	<0.50	<0.50	0.75	39,000	17,000	1,600	9.52	8.01	2.17	1.5	0.1	1.28
LHL04TBN1	<0.50	2.7	2.4	17	<0.50	<0.50	<0.50	90,000	88,000	2,700	8.59	8.01	1.2	0.9	<0.05	1.32
LHL04TBN1	<0.50	3	2.1	14	<0.50	<0.50	<0.50	83,000	69,000	1,300	9.24	8.32	1.2	1	<0.05	1.15
LHL04TBN1	<0.50	7.5	12	85	<0.50	<0.50	<0.50	51,000	9,000	410	12.33	8.14	4.88	3	<0.05	0.97
LHL04TBN1	<0.50	5.8	14	41	<0.50	<0.50	<0.50	21,000	4,200	90	9.54	8.06	3.74	3	0.24	1.12
LHL04TBN1	<0.50	4.9	5.6	39	<0.50	<0.50	<0.50	8,400	3,400	460	8.51	8.2	1.37	2.3	0.14	1.12
LHL04TBN1	<0.50	2.7	7.3	37	<0.50	<0.50	<0.50	3,800	2,400	260	8.85	7.02	2.51	1.8	0.23	0.83
LHL04TBN1	<0.50	2.2	4.8	21	<0.50	<0.50	<0.50	860,000	42,000	3,000	8.22	8.41	2.28	1.3	0.65	0.95
LHL04TBN1	1.1	3	12	23	<0.50	<0.50	<0.50	20,000	800	130	12.2	8.92	5.19	3.4	0.1	0.81
LHL04TBN1	<0.50	1.9	4.7	14	<0.50	<0.50	<0.50	7,800	280	300	9.42	8.24	4.26	2.6	0.09	0.78
LHL04TBN1	7.3	5.2	34	44	<0.50	<0.50	1.4	29,000	2,000	3,900	10.13	8.33	3.95	4.9	0.32	1.19
LHL04TBN1	<0.50	4.5	8.2	56	<0.50	<0.50	0.98	27,000	14,000	700	8.06	8.2	5.61	1.8	0.65	1.63
LHL04TBN1	1.2	4.1	12	35	<0.50	<0.50	0.89	36,000	10,000	2,800	8.5	8.2	5.01	2.2	0.15	1.42
LHL04TBN1	<0.50	3.3	9.5	51	<0.50	<0.50	<0.50	540,000	11,800	5,400	10.05	8.37	3.08	2.4	0.3	0.67
LHL04TBN1	<0.50	2.9	6.3	32	<0.50	<0.50	<0.50	113,000	3,400	3,300			1.99	2.9	0.15	1.07
LHL04TBN1	<0.50	3.5	6.8	44	<0.50	<0.50	<0.50	>36,000	7,000	3,400	8.45	8.13	2.38	2	0.25	0.74
LHL04TBN1	6.4	8.4	8.3	24	<0.50	<0.50	<0.50	>10,500	2,000	1,300	9.21	7.89	1.62	16.7	0.13	2.23
LHL04TBN1	<0.50	2	2.8	16	<0.50	<0.50	<0.50	42,000	8,600	3,900	8.02	7.98	4.72	2	0.15	0.92
LHL04TBN1	<0.50	3	7.2	33	<0.50	<0.50	<0.50	8,900	140	1,000	10.34	8.35	3.53	2.4	0.12	0.52
LHL04TBN1											9.68	8.3	3.84	2	0.11	0.68
LNJ03P01	<8.00	26	4.6	52	<2.00	3	<2.00	149,000	77,000	416,000	9.35	7.82	5.41	2.8	0.08	0.96
LNJ03P01	<8.00	20	21	38	<2.00	2.4	<2.00	12,250	3,950	8,300	8.15	7.62	3.96	2.5	0.15	2
LNJ03P01	<8.00	18	6.1	52	<2.00	3.2	<2.00	2,900	2,600	3,700	9.49	7.56	2.7	1.3	<0.05	0.3
LNJ03P01	<8.00	28	12	58	<2.00	3	<2.00	9,900	6,200	8,450		7.79	4.38	3.8		1.59

LNJ03P01	<8.00	25	9.4	32	<2.00	2.4	<2.00	133,000	106,000	13,000	7.7	7.61	4.09	2	0.28	1.39
LNJ03P01	<8.00	39	520	190	<2.00	16	<2.00	39,000	26,000	7,900	7.36	7.35	6.9	3.4		1.26
LNJ03P01	0.64	52	4.3	29	<0.50	5.9	<0.50	60,000	1,800	1,800	8.23	7.62	1.17	4	<0.05	0.69
LNJ03P01	0.95	42	4.9	26	<0.50	3.8	<0.50	17,000	33,000	2,500	8.21	7.45	2.31	4	0.07	1.7
LNJ03P01	<0.50	32	3.9	17	<0.50	2.6	<0.50	150,000	23,000	6,000	8.1	7.64	3.12	3.6	<0.05	1.31
LNJ03P01	0.53	39	5.4	23	<0.50	4.1	<0.50	54,000	11,200	8,800	8.1	7.36	1.86	3.8	0.07	1.36
LNJ03P01	0.52	25	3.1	16	<0.50	1.1	<0.50	55,000	27,000	7,900	6.93	7.27	3.18	5.2	0.07	2.93
LNJ03P01	0.52	22	2.8	8	<0.50	0.93	<0.50	14,000	8,200	2,200	8.15	7.73	1.23	2.7	<0.05	1.19
LNJ03P01	0.59	21	4.9	19	<0.50	3.2	<0.50	50,000	1,700	1,800	8.8	7.58	1.4	2.9	0.1	1.14
LNJ03P01	0.5	26	3	20	<0.50	1.7	<0.50	34,000	14,000	7,900	8.51	7.65	2.88	4.5	0.05	2.92
LNJ03P01	<0.50	35	3.1	25	<0.50	3.8	<0.50	40,000	3,000	7,300	10.47	7.59	1.6	3.9	0.05	1.19
LNJ03P01	<0.50	20	2.6	14	<0.50	1.7	<0.50	>9,400	3,300	3,700	8.21	7.72	1.75	3.2	0.1	1.21
LNJ03P01	<0.50	23	2.4	13	<0.50	2.1	<0.50	28,000	800	2,100	7.95	7.79	2.08	3.6	0.1	1.02
LNJ03P01	<0.50	21	1.9	19	<0.50	2	<0.50	26,000	360	800	13.54	7.66	2.08	4	0.1	1.47
LNJ03P01											11.29	7.92	5.85	2.6	0.33	0.74
LNJ03P04	<0.50	120	9.3	40	<0.50	14	<0.50	63,000	20,000	8,100	12.17	7.67	8.78	4.2	0.75	1.59
LNJ03P04	<0.50	130	5.1	79	<0.50	12	<0.50	720,000	460,000	43,000	6.45	6.62	4.95	4.8	0.19	1.74
LNJ03P04	0.8	19	6.1	16	<0.50	1.1	<0.50	220,000	68,000	33,000	8.69	7.44	5.67	6.2	<0.05	3.58
LNJ03P04	<0.50	65	4	11	<0.50	2.2	<0.50	98,000	71,000	35,000	7.66	7.69	3.52	2.3	0.08	1.3
LNJ03P04	<0.50	32	4.1	13	<0.50	1.5	<0.50	160,000	120,000	73,000	7	7.73	5	14.7	<0.05	2.93
LNJ03P04	0.63	80	19	79	<0.50	11	<0.50	83,000	19,000	105,000	8.52	7.56	10.8	6.2	0.05	2.59
LNJ03P04	<0.50	60	5.4	20	<0.50	2.2	<0.50	63,000	8,700	17,000	8.46	7.75	7.09	5	0.08	2.18
LNJ03P04	<0.50	43	4.4	15	<0.50	2.2	<0.50	150,000	57,000	23,000	7.72	7.88	7.03	2.3	0.18	2.61
LNJ03P04	<0.50	39	8	22	<0.50	4	<0.50	280,000	160,000	40,000	6.8	7.7	8.63	3.4	2.8	2.81
LNJ03P04	<0.50	34	3	13	<0.50	1.2	<0.50	42,000	13,000	5,000	7.56	7.94	8.97	4.6	0.07	3.59
LNJ03P04	<0.50	58	3.6	13	<0.50	2	<0.50	>940,000	12,700	7,000	8.26	7.83	8.1	3.4	0.12	1.4
LNJ03P04	<0.50	20	5.1	15	<0.50	2.2	<0.50	33,000	1,200	5,200	12.58	7.79	3.79	3.2	0.11	1.72
LNJ03P04	<0.50	41	3.7	9.9	<0.50	1	<0.50	>84,000	23,000	21,000	7.62	8.11	5.33	2.3	0.12	0.89
LNJ03P04	<0.50	25	3.3	6.3	<0.50	1.1	<0.50	>90,000	21,000	29,000	7.83	7.98	3.82	2.9	0.38	1.18
LNJ03P04	0.51	130	3.8	8.8	<0.50	0.79	<0.50	200,000	27,000	13,100	7.99	8.07	14.8	3.7	0.11	0.3
LNJ03P04	<0.50	49	5.8	17	<0.50	2	<0.50	>77,000	10,000	49,000	9.7	7.89	5.69	3	0.11	0.83

Administrative Record Page No. 025271

LNJ03P04	<0.50	77	3.7	9.9	<0.50	1.3	<0.50	68,000	7,800	62,000	9.3	7.81	4.56	3.9	0.1	0.84
LNJ03P05	<0.50	53	8.5	25	<0.50	3.7	<0.50	23,000	7,000	2,100	13.5	7.88	8.91	3.3	<0.05	0.67
LNJ03P05	<0.50	130	8.3	62	<0.50	6.9	<0.50	43,000	13,000	3,600	9.12	7.7	3.71	4	0.85	1.13
LNJ03P05	<0.50	78	6.5	26	<0.50	3.3	<0.50	68,000	67,000	25,000	9.41	7.8	3.07	3.3	0.08	0.92
LNJ03P05	0.58	73	7.8	34	<0.50	6	<0.50	330,000	140,000	45,000	7.88	7.7	4.01	2.2	0.1	1.1
LNJ03P05	<0.50	81	11	29	<0.50	4.1	<0.50	56,000	42,000	6,000	7.34	7.57	3.16	4.1	0.25	1.48
LNJ03P05	<0.50	97	7.9	54	<0.50	8.3	<0.50	43,000	13,000	10,000	9.92	7.86	8.3	1.6	0.05	0.9
LNJ03P05	<0.50	49	6.8	27	<0.50	2.9	<0.50	220,000	37,000	16,000	8.02	7.46	8.08	6.4	0.09	3.96
LNJ03P05	<0.50	41	4.6	17	<0.50	1.7	<0.50	63,000	4,900	11,000	8.02	7.84	13.7	2.9	0.05	1.31
LNJ03P05	<0.50	39	7	16	<0.50	2	<0.50	380,000	200,000	68,000	8.19	7.98	2.8	1.8	0.28	1.76
LNJ03P05	<0.50	40	4.3	15	<0.50	2	<0.50	49,000	8,000	8,000	8.07	7.52	2.56	2.6	0.05	2.05
LNJ03P05	<0.50	130	4.4	20	<0.50	1.2	<0.50	>32,000	5,300	5,600	9.37	7.31	8.23	4.2	0.17	0.46
LNJ03P05	<0.50	46	6.2	23	<0.50	2.9	<0.50	300,000	14,000	23,000	13.82	7.59	4.13	2.8	0.15	0.86
LNJ03P05	<0.50	38	9.3	15	<0.50	1.8	<0.50	33,000	7,200	22,000	8.2	7.77	15.4	2	0.72	0.89
LNJ03P05	<0.50	55	5.8	14	<0.50	1.7	<0.50	24,000	5,800	5,000	9.48	8.08	3.66	2	0.1	0.77
LNJ03P05	<0.50	81	7.1	20	<0.50	0.81	<0.50	37,000	10,000	9,800	8.93	8.06	5.38	2.6	0.18	0.66
LNJ03P05	<0.50	130	4.5	40	<0.50	8.1	<0.50	28,000	3,400	14,200	9.7	7.93	3.23	3.4	0.1	0.45
LNJ03P05	<0.50	170	4.1	53	<0.50	0.7	<0.50	22,000	1,700	8,400	10.33	7.82	14.4	3.7	0.11	0.33
LNJ03P13	<0.50	390	3.6	190	<0.50	47	<0.50	15,000	3,100	340	7.95	7.44	0.47	4.7	0.06	0.24
LNJ03P13	<0.50	260	2.8	120	<0.50	18	<0.50	34,000	3,400	1,500	6.69	7.11	0.49	6.7	<0.05	0.48
LNJ03P13	<0.50	180	2.9	63	<0.50	4.6	<0.50	19,000	12,000	4,700	7.69	7.25	1.1	5.3	<0.05	0.65
LNJ03P13	0.55	220	3	76	<0.50	7.5	<0.50	43,000	7,900	5,600	8.54	7.33	1.11	6.4	0.06	0.46
LNJ03P13	<0.50	160	3.2	57	<0.50	5.3	<0.50	36,000	13,000	2,000	6.01	7.62	0.71	5.5	0.1	0.35
LNJ03P13	<0.50	180	2.8	110	<0.50	13	<0.50	14,000	610	230	8.35	7.07	0.35	3.2	0.05	0.46
LNJ03P13	<0.50	170	3.1	97	<0.50	12	<0.50	8,200	220	2,800	6.58	7.37	0.71	6.1	0.05	0.48
LNJ03P13	<0.50	120	2.6	57	<0.50	12	<0.50	29,000	3,500	8,800	5.82	7.45	1.83	4.8	0.06	0.68
LNJ03P13	<0.50	120	2.5	52	<0.50	8	<0.50	24,000	9,000	11,000	6.27	7.58	1.26	4.9	0.1	0.66
LNJ03P13	<0.50	86	1.9	35	<0.50	4.4	<0.50	24,000	1,100	800	7.08	7.75	0.33	5	0.05	0.3
LNJ03P13	0.56	160	3.3	82	<0.50	17	<0.50	>158,000	>46,000	860	6.32	7.52	1.04	5.7	0.11	0.24
LNJ03P13	<0.50	120	2.3	63	<0.50	13	<0.50	30,000	460	2,900	8.18	7.32	0.86	5.1	0.12	0.45

LNJ03P13	<0.50	110	2.5	45	<0.50	9	<0.50	4,900	1,330	910	6.02	7.88	0.6	4.3	0.1	0.3
LNJ03P13	<0.50	100	2.7	37	<0.50	7.7	<0.50	15,000	420	1,320	7.26	7.74	0.6	3.1	0.1	0.32
LNJ03P13	<0.50	81	3.1	43	<0.50	7.7	<0.50	5,800	510	950	7.14	8.05	0.96	6.6	0.1	0.3
LNJ03P13	0.56	120	2.9	52	<0.50	9.5	<0.50				8.09	7.5	0.4	3.4	0.1	0.3
LNJ03P13								22,000	390	550	9.73	7.65	0.54	4.6	0.1	0.38
LNJ04@LPAZ	0.51	100	2.3	23	<0.50	1.6	<0.50	>40,000	8,400	5,700	8.42	7.51	6	4	0.1	0.57
LNJ04@LPAZ								37,000	5,100	5,500	5.74	7.19	5.02	4.2	0.1	0.83
LNJ04DSRP	<0.50	57	6.2	35	<0.50	9.4	<0.50	170	<9	50	5.83	7.42	5.74	4.9	0.1	5.55
LNJ04DSRP								32,000	1,000	2,300	6.83	7.66	3.61	4.5	0.1	0.8
LNK01P07	<8.00	5.4	9.1	33	<2.00	<1.00	<2.00	24,000	16,000	8,200	8.85	8.39	8.83	2.4	<0.05	1.67
LNK01P07	<8.00	7.7	12	36	<2.00	<1.00	<2.00	18,600	5,000	3,900	8.99	6.89	2.48	4	0.1	2.37
LNK01P07	<8.00	6	13	29	<2.00	<1.00	<2.00	25,000	16,300	54,000	8.33	7.23	6.17	3	<0.05	2.03
LNK01P07	<8.00	5.5	13	35	<2.00	<1.00	<2.00	54,000	30,000	16,100	8.52	7.8	5.07	3	0.13	1.77
LNK01P07	<8.00	6.8	12	70	<2.00	<1.00	<2.00	12,600	6,900	11,800	8.29	8.2	2.2	2.9	0.08	1.79
LNK01P07	<8.00	8.8	18	39	<2.00	<1.00	<2.00	67,000	52,000	7,700	7	7.8	15.5	3.4		2.78
LNK01P07	<0.50	7.8	11	15	<0.50	<0.50	<0.50	410,000	116,000	143,000	8.33	7.3	2.62	4.6	0.16	2.24
LNK01P07	<0.50	9.5	7.6	25	<0.50	<0.50	<0.50	440,000	>120,000	86,000	8.6	7.68	6.68	3.3	<0.05	4.8
LNK01P07	<0.50	8.4	6	11	<0.50	<0.50	<0.50	330,000	100,000	280,000	8.67	7.91	5.32	4.3	<0.05	2.5
LNK01P07	<0.50	9.8	6.9	21	<0.50	<0.50	<0.50	570,000	117,000	11,000	8.8	7.9	3.19	4.5	0.06	2.83
LNK01P07	<0.50	12	8.7	31	<0.50	<0.50	<0.50	110,000	14,000	23,000	8.73	7.61	6.88	5.3	0.08	3.84
LNK01P07	<0.50	18	5.7	16	<0.50	<0.50	<0.50	91,000	66,000	36,000	8.34	7.59	6.57	3.2	0.1	2.92
LNK01P07	<0.50	5.2	6.6	16	<0.50	<0.50	<0.50	32,000	21,000	7,400	9.31	7.9	5.85	6.3	0.06	3.56
LNK01P07	<0.50	6.2	6.1	10	<0.50	<0.50	<0.50	107,000	17,000	22,000	9.2	8.1	1.99	3.5	0.05	1.76
LNK01P07	<0.50	4.2	13	13	<0.50	<0.50	<0.50	160,000	50,000	29,000	8.24	8.04	5.92	2.9	0.05	2.49
LNK01P07	<0.50	5.3	5.8	13	<0.50	<0.50	<0.50	510,000	22,000	7,400	10.65	7.94	5.73	4.8	0.1	1.86
LNK01P07	<0.50	5.6	6.7	17	<0.50	<0.50	<0.50	190,000	22,000	28,000	8.36	7.98	2.7	3.8	0.11	2.12
LNK01P07	<0.50	5.7	13	17	<0.50	<0.50	0.93	135,000	>4,600	30,000	14.45	8.64	14	2.7	0.18	1.9
LNK01P07	<0.50	3.6	5.2	11	<0.50	<0.50	<0.50	>29,000	>450	6,500	10.11	7.94	5.09	3.7	0.1	1.61
LNK01P07											9.87	8.12	5.82	4.2	0.1	1.98

LNK01P08	<8.00	6	10	31	<2.00	<1.00	<2.00	69,000	5,000	4,500	9.2	8.25	6.47	2.3	<0.05	1.45
LNK01P08	<8.00	4.1	12	40	<2.00	<1.00	<2.00	129,000	940	102,000	8.91	6.97	2.02	5.5	<0.05	3.87
LNK01P08	<8.00	<4.00	10	23	<2.00	<1.00	<2.00	35,000	4,300	46,000	8.71	7.4	2.71	2.9	<0.05	1.15
LNK01P08	<8.00	6.6	10	39	<2.00	<1.00	<2.00	88,000	42,000	17,700	8.5	7.9	3.44	2.4	0.9	1.86
LNK01P08	<8.00	9.1	15	63	<2.00	<1.00	<2.00	20,450	12,200	5,600	7.98	8.13	2.36	2.9	0.13	1.51
LNK01P08	<8.00	11	7.8	27	<2.00	<1.00	<2.00	10,000	7,300	6,500	8	7.9	4.44	2.6		2.02
LNK01P08	<0.50	12	6.4	12	<0.50	<0.50	<0.50	540,000	63,000	22,000	9.16	7.64	3.62	2.8	0.19	1.16
LNK01P08	<0.50	13	10	23	<0.50	<0.50	0.78	300,000	>120,000	109,000	8.87	7.88	6.07	3.2	0.22	2.27
LNK01P08	<0.50	7.9	4.3	7.6	<0.50	<0.50	<0.50	200,000	130,000	20,000	8.91	8.02	3.93	2.8	<0.05	1.44
LNK01P08	<0.50	14	7.7	13	<0.50	<0.50	<0.50	370,000	63,000	12,000	8.95	7.96	3.13	2.8	0.19	1.36
LNK01P08	<0.50	14	5.2	7.9	<0.50	<0.50	<0.50	54,000	9,500	19,000	9.28	8	3.13	2.2	0.15	1.76
LNK01P08	0.7	15	13	22	<0.50	0.58	1.3	390,000	250,000	22,000	8.45	7.66	29.7	2.8	0.08	1.26
LNK01P08	<0.50	4.8	11	12	<0.50	<0.50	<0.50	18,000	11,500	6,200	9.63	8.01	2.72	4.1	0.06	2.58
LNK01P08	<0.50	5.2	5.8	11	<0.50	<0.50	<0.50	48,000	6,700	13,000	8.95	8.16	3.06	2.7	0.1	1.53
LNK01P08	<0.50	3.9	3.2	9.1	<0.50	<0.50	<0.50	50,000	19,000	11,000	8.7	8.07	2.83	2.5	0.05	1.73
LNK01P08	<0.50	4.9	3.4	9.5	<0.50	<0.50	<0.50	>34,000	4,800	11,900	11.57	8.09	3.7	4.4	0.1	1.25
LNK01P08	<0.50	4.6	5.1	7.7	<0.50	<0.50	<0.50	>79,000	16,000	24,000	8.96	8.07	2.2	2.6	0.1	1.02
LNK01P08	<0.50	4.8	4.1	7	<0.50	<0.50	<0.50	56,000	3,600	9,900	13.86	8.24	4	2	0.23	1.11
LNK01P08	<0.50	4.3	3.3	8.9	<0.50	<0.50	<0.50	>48,000	>900	8,400	10.32	8.03	2.36	3.1	0.1	1.24
LNK01P08											9.9	8.14	5.96	3.8	0.1	2.13
LNK01P09	<8.00	6.3	6.3	47	<2.00	<1.00	<2.00	740	<10	1,400	10.26	8.16	22.7	2.9	<0.05	1.37
LNK01P09	<8.00	4.1	7	34	<2.00	<1.00	<2.00	<10	<10	1,550	10.28	6.45	7.1	3.1	0.08	1.99
LNK01P09	<8.00	<4.00	10	33	<2.00	<1.00	<2.00	39,000	29,000	37,000	9.93	7.31	17.8	4.2	<0.05	2.02
LNK01P09	<8.00	7.5	5.4	41	<2.00	<1.00	<2.00	510	350	610	11	8	3.99	2.8	0.15	1.71
LNK01P09	<8.00	9.1	6.1	63	<2.00	<1.00	<2.00	610	510	460	8.77	8.08	3.88	1.4		1.56
LNK01P09	<8.00	8.5	14	32	<2.00	<1.00	<2.00	70,000	57,000	35,000	3.4	7	3.33	3.4	0.1	2.14
LNK01P09	<0.50	19	6.3	11	<0.50	<0.50	<0.50	33,000	200	420	9.42	7.53	1.67	4.5	0.08	1.63
LNK01P09	<0.50	13	4.1	13	<0.50	<0.50	<0.50	16,000	9,000	700	9.31	7.84	1.23	3.4	<0.05	1.41
LNK01P09	<0.50	15	4.7	12	<0.50	<0.50	<0.50	50,000	30,000	590	9.45	7.85	0.73	5.2	<0.05	2.36
LNK01P09	<0.50	24	3.7	11	<0.50	<0.50	<0.50	4,700	1,500	410	9.38	7.83	0.8	3.7	<0.05	1.62

LNK01P09	<0.50	23	4.1	12	<0.50	<0.50	<0.50	6,300	100	9,200	9.84	7.87	1.55	2.3	0.18	1.85
LNK01P09	<0.50	24	5.7	15	<0.50	1.1	<0.50	5,200	1,400	800	8.77	7.62	0.47	3.1	0.1	2.24
LNK01P09	<0.50	5	3.7	12	<0.50	<0.50	<0.50	1,300	180	500	9.94	7.83	0.6	3.4	0.06	2.19
LNK01P09	<0.50	4.8	2.8	8.3	<0.50	<0.50	<0.50	520	110	80	9.69	8	1.09	3.1	0.1	1.98
LNK01P09	<0.50	4.3	1.9	9.1	<0.50	<0.50	<0.50	700	400	700	10.06	7.98	0.52	2	0.05	2.39
LNK01P09	<0.50	6	2	6.7	<0.50	<0.50	<0.50	>480	<9	240	11.74	7.95	0.58	2	0.1	2.27
LNK01P09	<0.50	6.3	5.5	8.4	<0.50	<0.50	<0.50	2,100	60	320	9.69	7.94	0.71	2.2	0.1	2.19
LNK01P09	<0.50	6.6	1.7	6.8	<0.50	<0.50	<0.50	590	<9	230	15.81	8.06	1	2	0.11	1.98
LNK01P09	<0.50	4.7	3.3	8.5	<0.50	<0.50	<0.50	2,800	200	370	11.09	7.91	0.66	3	0.1	2.3
LNK01P09											10.32	7.97	0.59	2.7	0.1	2.95
LNL03P03	0.81	9.6	4.6	34	<0.50	<0.50	<0.50	80,000	10,000	2,900	7.56	7.55	1.19	2.4	0.17	<0.06
LNL03P03	<0.50	12	3.8	34	<0.50	<0.50	<0.50	38,000	8,000	4,700	9.21	7.6	1.76	3.7	<0.05	1.38
LNL03P03	<0.50	7.1	4.4	32	<0.50	<0.50	<0.50	200,000	38,000	13,000	7.73	7.94	2.93	1.8	0.12	1.47
LNL03P03	<0.50	12	2.8	26	<0.50	<0.50	<0.50	1,180,000	1,090,000	27,000	7.5	7.9	2.9	2.5	<0.05	1.25
LNL03P03	<0.50	19	4.6	49	<0.50	0.58	<0.50	460,000	74,000	40,000	8.6	7.95	4.5	6.7	0.23	4.01
LNL03P03	0.91	9.5	7	51	<0.50	<0.50	<0.50	19,000	1,600	720	9.67	7.92	4.03	4.5	0.07	4.89
LNL03P03	<0.50	8.5	6.8	50	<0.50	<0.50	<0.50	1,000	<10	90	8.3	7.67	4.3	5.7	0.11	14.5
LNL03P03	<0.50	9.9	4.6	53	<0.50	0.55	0.52	76,000	140	14,000	7.29	7.7	1.79	8.1	0.13	4.38
LNL03P03	<0.50	6.4	5.7	54	<0.50	0.56	<0.50	58,000	40,000	28,000	7.72	7.57	4.29	7	0.15	3.63
LNL03P03	<0.50	6.6	3.1	22	<0.50	<0.50	<0.50	59,000	20,000	13,000	0	7.95	5.4	5.3	0.1	2.78
LNL03P03	<0.50	8.3	11	76	<0.50	1.1	1.1	230,000	45,000	520	8.12	7.82	2.8	12	0.35	3.33
LNL03P03	0.72	8.4	12	88	<0.50	0.74	0.78	6,500	1,900	1,200	8.53	8.07	5.49	10	0.19	3.54
LNL03P03	<0.50	6.5	3.6	39	<0.50	<0.50	0.66	37,000	3,600	6,800	6.15	7.98	1.45	4.5	0.06	3.5
LNL03P03	<0.50	6.6	3.4	44	<0.50	<0.50	1	90,000	29,000	6,700	7.85	7.76	2.82	7.4	0.1	2.57
LNL03P03	<0.50	7.7	3.1	38	<0.50	<0.50	0.56	7,700	2,000	2,100	6.45	7.87	1.55	7	0.05	4.4
LNL03P03	<0.50	4.6	3.5	41	<0.50	<0.50	<0.50	>21,000	2,200	5,200	6.6	7.86	2.12	2.2	0.1	1.44
LNL03P03	<0.50	5.4	4.1	31	<0.50	<0.50	<0.50	>19,500	>380	2,800	10.15	7.94	4.25	2	0.11	0.93
LNL03P03	<0.50	4.8	2.4	12	<0.50	2.3	<0.50	122,000	10,000	3,200	12.13	8.13	3.78	2	0.12	1.49
LNL03P03	<0.50	15	3.3	14	<0.50	4.1	<0.50	56,000	25,000	31,000	4.76	7.87	1.98	4.5	0.1	3.19
LNL03P03	<0.50	8.8	4	21	<0.50	1.9	<0.50	58,000	9,400	10,400	8.06	8.2	2.14	6	0.1	5.21
LNL03P03	<0.50	7.9	5.3	48	<0.50	<0.50	<0.50	76,000	8,200	5,800	8.43	8.12	4.62	12.9	0.1	6.83

LNL03P03	<0.50	2.8	3.7	23	<0.50	<0.50	<0.50	42,000	1,700	4,300	10.27	8.1	3.66	5.1	0.1	2.29
LNL03P04	<8.00	8.1	4.6	21	<2.00	<1.00	<2.00	<10	<10	<10	11.87	8.06	0.87	1.3	<0.05	0.66
LNL03P04	<8.00	7.8	5.6	43	<2.00	<1.00	<2.00	8,600	3,100	860	13.99	7.46	1.77	<0.20	<0.05	1.39
LNL03P04	<8.00	6.3	6.4	23	<2.00	<1.00	<2.00	3,800	3,100	760	11.4	8.11	1.24	1.1	0.5	0.42
LNL03P04	<8.00	13	7.9	51	<2.00	<1.00	<2.00	4,000	2,100	1,610	9.24	8.09	1.28	1.9	<0.05	0.85
LNL03P04	<8.00	13	5.9	24	<2.00	<1.00	<2.00	450	260	1,200	10.99	8.39	1.77	2.1		1
LNL03P04	<8.00	15	5.2	31	<2.00	<1.00	<2.00	300	110	1,130	7.97	7.75	1.53	1.1		1.69
LNL03P04	<0.50	31	4.5	19	<0.50	1.3	<0.50	140,000	50,000	6,500	11.45	8.1	1.95	3.7	0.09	0.49
LNL03P04																
LNL03P04	<0.50	29	3.4	19	<0.50	1	<0.50	22,000	2,500	810	8.2	7.86	1.32	3.5	0.08	1.32
LNL03P04	<0.50	20	2.7	15	<0.50	0.63	<0.50	100,000	30,000	3,600	9.73	7.98	1.88	2.5	<0.05	1.64
LNL03P04	<0.50	31	3.5	20	<0.50	<0.50	<0.50	30,000	6,900	3,500	9.22	7.62	2.22	4.7	0.13	1.56
LNL03P04	<0.50	25	2.6	13	<0.50	0.54	<0.50	9,500	690	1,200	5.69	7.5	2.01	4.3	0.15	0.92
LNL03P04	<0.50	13	3.6	13	<0.50	<0.50	<0.50	9,000	1,300	1,000	6.03	7.61	2.18	3	0.07	1.35
LNL03P04	<0.50	12	4.7	26	<0.50	1.5	<0.50	6,100	320	870	9.64	7.93	1.91	5.4	0.09	3.45
LNL03P04	<0.50	13	6.2	20	<0.50	0.9	<0.50	400	<10	100	5.23	7.77	0.61	3.6	0.07	1.38
LNL03P04	<0.50	31	2	22	<0.50	0.77	<0.50	8,000	900	1,900	6.08	7.78	1.41	3.7	0.06	1.79
LNL03P04	<0.50	16	2.6	18	<0.50	<0.50	<0.50	74,000	380	5,200	5.38	7.49	6.62	3.2	0.11	1.31
LNL03P04	<0.50	10	2.6	9.4	<0.50	<0.50	<0.50	>21,000	640	2,000	7.15	7.93	2.46	2.8	0.1	1.11
LNL03P04	<0.50	10	3.6	7.3	<0.50	<0.50	<0.50	>10,700	830	4,100	6.82	8	14.4	2	0.12	0.78
LNL03P04	<0.50	15	7.8	69	<0.50	0.84	<0.50	>1,300	70	190	8.15	7.86	0.85	2.9	0.1	0.45
LNL03P06	<8.00	38	15	41	<2.00	2.6	<2.00	1,900	1,400	1,100	8.77	7.38	1.35	7.3	<0.05	1.27
LNL03P06	<8.00	42	19	51	<2.00	2.3	<2.00	9,300	6,300	2,600	8.95	6.99	2.04	6.9	0.1	1.53
LNL03P06	<8.00	19	6.4	17	<2.00	4.3	<2.00	62,000	28,000	22,000	8.48	8.14	4.36	0.7	<0.05	0.45
LNL03P06	<8.00	11	7.4	42	<2.00	<1.00	<2.00	1,210	440	450	7.52	7.52	1000	1.4	0.1	0.27
LNL03P06	<8.00	42	36	43	<2.00	3.2	<2.00	38,000	13,200	42,000	1.11	8.03	8.89	7.9	0.21	1.86
LNL03P06	<8.00	33	18	91	<2.00	2.4	<2.00	78,000	45,000	18,800	7.54	7.95	24.3		0.18	2.71
LNL03P06	<8.00	41	29	86	<2.00	4.2	<2.00	26,000	8,050	10,300	8.26	7.79	7.23	4.5		1.73
LNL03P06	<8.00	31	22	11	<2.00	<1.00	<2.00	36,000	26,000	6,500	8.33	7.4	3.43	4.7		1.43
LNL03P06	<8.00	18	11	27	<2.00	<1.00	<2.00	65,000	34,000	11,900	13.39	8.05	81.7	2.6	0.2	2.24

LNL03P06	<8.00	24	21	68	<2.00	1.2	<2.00	<200,000	<200,000	<200,000	12.85	8.19	15	7.3	1.3	4.79
LNL03P06	<0.50	110	8.1	72	<0.50	8.2	<0.50	30,000	310	5,400	8.66	7.85	3.48	6	<0.05	0.83
LNL03P06	<0.50	80	9.6	41	<0.50	5.2	<0.50	90,000	3,400	3,900	9.12	7.56	2.26	7.8	0.1	1.31
LNL03P06	3.1	16	6.1	80	0.98	3.9	2.9	9,000	3,100	430	9.15	8	616	3.1	0.15	0.45
LNL03P06	<0.50	44	7.1	26	<0.50	2.1	<0.50	120,000	80,000	11,000	8.4	8	3.27	7.5	0.07	1.58
LNL03P06	0.59	200	7.5	49	<0.50	4.9	<0.50	45,000	33,000	3,700	8.4	7.81	2.3	5.8	0.08	1.16
LNL03P06	<0.50	24	13	45	<0.50	1.9	<0.50	43,000	10,000	880	7.04	7.29	3.42	5.3	0.11	5.39
LNL03P06	1	34	21	190	<0.50	5.8	0.66	45,000	130	250	7.51	7.47	10.3	5.9	1.6	6.65
LNL03P06	<0.50	28	7.9	32	<0.50	2.3	<0.50	23,000	<10	320	6.5	7.42	3.06	8	<0.05	5.43
LNL03P06	1.6	16	9.2	45	<0.50	2.5	<0.50	4,200	160	800	7.4	7.56	3.34	9.4	0.11	5.08
LNL03P06	<0.50	24	6.3	26	<0.50	2.7	<0.50	23,000	<10	<10	0	7.8	1.39	5.9	<0.04	3.64
LNL03P06	<0.50	48	15	38	<0.50	3.1	<0.50	37,000	780	700	8.59	7.75	3.19	8.9	0.12	3.25
LNL03P06	<0.50	25	13	26	<0.50	1.7	<0.50	25,000	900	6,100	8.98	7.92	1.51	8.7	0.12	2.02
LNL03P06	<0.50	23	13	20	<0.50	0.87	<0.50	140,000	55,000	13,000	7.38	7.96	1.67	6.9	0.05	2.3
LNL03P06	<0.50	12	4.7	20	<0.50	0.79	<0.50	50,000	23,000	47,000	7.96	7.75	1.63	6.2	0.05	2.48
LNL03P06	<0.50	13	9	27	<0.50	0.94	<0.50	320,000	19,000	6,000	6.3	7.8	3.99	4.3	0.11	3.22
LNL03P06	<0.50	16	7.1	21	<0.50	1.1	<0.50	35,000	3,700	5,200	8.93	7.96	4.3	6.6	0.1	1.19
LNL03P06	<0.50	16	4.5	20	<0.50	1.3	<0.50	27,000	3,300	2,300	10.88	8.18	1.87	4.2	0.08	0.65
LNL03P06	<0.50	24	4.8	13	<0.50	0.74	<0.50	13,000	>3,300	2,200	12.36	8.12	2.41	3.2	0.1	0.83
LNL03P06	<0.50	84	4.7	20	<0.50	3.1	<0.50	>124,000	46,000	23,000	8.68	7.72	38	14.3	0.1	5.31
LNL03P06	<0.50	30	6.3	21	<0.50	1.8	<0.50	84,000	18,400	8,400	10.87	8.04	3.99	8.3	0.15	2.74
LNL03P06	<0.50	84	8.2	38	<0.50	3.7	<0.50	>64,000	3,300	12,500	8.45	7.92	2.87	13.8	0.1	1.32
LNL03P06	<0.50	110	7.8	64	<0.50	2	<0.50	34,000	1,800	3,300	10.29	7.98	2.42	13.5	0.1	1.92
LWI02P18	<0.50	2.1	5.6	7.7	<0.50	<0.50	<0.50	31,000	4,400	3,900	9.6	7.7	4.67	1.9	0.08	0.75
LWI02P18	<0.50	1.9	1.4	<2.00	<0.50	<0.50	<0.50	18,000	990	2,800	7.84	7.76	835	1.1	0.09	0.57
LWI02P18	<0.50	4	3.5	6.6	<0.50	<0.50	<0.50	40,000	6,000	4,900	0	7.88	9.22	1.2	0.08	1.52
LWI02P18	<0.50	3.7	2.5	3.2	<0.50	<0.50	<0.50	7,100	700	1,300	8.2	7.67	23.3	1.8	0.06	1.85
LWI02P18	<0.50	4.9	2.1	6.2	<0.50	<0.50	<0.50	36,000	8,300	6,500	5.84	7.87	25.9	1.3	0.12	1.6
LWI02P18	<0.50	3.9	4.2	9.5	<0.50	<0.50	<0.50	>9,500	140	8,000	9.87	7.82	3.73	2.3	0.15	0.36
LWI02P18	<0.50	3.8	1.4	5.6	<0.50	<0.50	<0.50	36,000	24,000	5,700	12.27	7.85	12.9	2	0.11	0.3
LWI02P18	<0.50	4.4	1.8	6.2	<0.50	<0.50	<0.50	9,700	860	3,700	7.06	7.88	13.7	2	0.1	0.34

Administrative Record Page No. 025277

LWI02P18	<0.50	5.1	3.5	8.9	<0.50	<0.50	<0.50	16,000	2,500	8,200	7.31	7.35	21	2	0.25	0.45
LWI02P18	<0.50	3.7	1	3.6	<0.50	<0.50	<0.50	26,000	620	3,200	11.8	7.66	22.8	2	0.1	0.41
LWI02P18	<0.50	2.9	3.9	5	<0.50	<0.50	<0.50	2,300	210	500	9.41	7.61	14.1	2	0.1	0.3
LWI02P18	<0.50	2.9	6.6	6.7	<0.50	<0.50	<0.50	21,000	1,600	5,700	10.2	7.76	17.9	2	0.21	0.3
LWJ01ASVM	<0.50	100	2.4	27	<0.50	32	<0.50	9,000	3,500	130	8.94	7.34	0.31	1	0.1	1.08
LWJ01ASVM																
LWJ01ASVM	<0.50	110	2.6	29	<0.50	14	<0.50	3,100	330	200	9.42	7.75	0.26	1.1	<0.05	0.99
LWJ01ASVM	<0.50	97	2.1	20	<0.50	15	<0.50	16,000	13,000	240	8.62	7.61	0.37	3.5	<0.05	1.15
LWJ01ASVM	<0.50	90	2.2	16	<0.50	11	<0.50	17,000	3,700	740	8.16	7.55	0.4	1.6	<0.05	1.19
LWJ01ASVM	<0.50	100	2.7	55	<0.50	16	<0.50	27,000	2,000	1,900	8.12	7.72	0.6	1.9	<0.05	1.08
LWJ01ASVM	<0.50	120	2.4	26	<0.50	23	<0.50	2,600	1,100	490	13.4	7.6	0.96	1.9	0.06	1.18
LWJ01ASVM	<0.50	110	2.3	18	<0.50	17	<0.50	2,600	130	460	9.26	7.72	0.44	1.5	0.08	1.53
LWJ01ASVM	<0.50	100	2.1	18	<0.50	17	<0.50	3,700	540	220	8.72	7.7	0.56	0.9	0.09	1.4
LWJ01ASVM	<0.50	100	2	17	<0.50	11	<0.50	8,200	2,800	170	9.75	7.33	0.33	1.7	<0.05	1.27
LWJ01ASVM	<0.50	85	2.9	11	<0.50	23	<0.50	5,000	<10	<10	8.72	7.76	0.29	1.4	<0.05	1.15
LWJ01ASVM	<0.50	67	3.4	16	<0.50	12	<0.50	1,600	200	140	13.37	7.92	0.27	1.3	0.12	1.2
LWJ01ASVM	<0.50	68	3	18	<0.50	10	<0.50	3,100	1,700	1,100	9.21	7.95	0.31	0.8	0.05	1.14
LWJ01ASVM	<0.50	56	0.98	13	<0.50	6.2	<0.50	5,600	2,000	1,300	8.09	7.78	0.66	0.7	0.05	1.3
LWJ01ASVM	<0.50	57	2.6	15	<0.50	2.4	<0.50	17,000	6,900	4,100	8.05	7.86	2.79	0.4	0.5	1.32
LWJ01ASVM	<0.50	54	0.95	7	<0.50	0.68	<0.50	2,800	400	300	8.5	7.84	0.76	0.6	0.05	1.24
LWJ01ASVM	<0.50	83	1.8	18	<0.50	5.9	<0.50	>21,000	900	14,400	9.47	7.94	3.68	2	0.1	1.22
LWJ01ASVM	<0.50	78	0.93	14	<0.50	2.2	<0.50	>940	<9	200	8.72	7.68	0.56	2	0.1	0.96
LWJ01ASVM	<0.50	77	2.1	16	<0.50	11	<0.50	>10,400	1,800	1,130	7.83	7.84	1.68	2	0.12	1.39
LWJ01ASVM	<0.50	83	1.7	10	<0.50	6.8	<0.50	>900	210	60	10.06	7.71	1.83	1	0.1	1.12
LWJ01ASVM	<0.50	68	2	17	<0.50	10	<0.50	4,100	440	520	7.63	7.75	0.69	2	0.1	1.25
LWJ01ASVM	<1.00	76	2.6	19	<1.00	6.3	<1.00	>1,220	250	540	10.04	7.84	0.64	2	0.1	0.83
LWJ01ASVM								2,200	240	280	11.95	7.87	0.77	2	0.1	0.98
MVJ01P03	<8.00	5.5	19	70	<2.00	<1.00	2.1	27,000	12,000	40,400	7.28	7.93	5.44	1	0.19	1.13
MVJ01P03	<8.00	<4.00	6.1	37	<2.00	<1.00	<2.00	25,000	6,000	15,400	9.5	7.21	1.68	0.9	0.14	1.77
MVJ01P03	<8.00	4	12	35	<2.00	<1.00	<2.00	60,000	43,000	16,100	1.35	7.86	1.66	1.1	0.33	0.48

MVJ01P03	<8.00	4.6	16	40	<2.00	<1.00	<2.00	18,600	5,200	70	6.57	7.35	3.66	1.5	0.1	1.45
MVJ01P03	<8.00	<4.00	17	34	<2.00	<1.00	<2.00	34,000	7,600	15,800	2.17	7.62	4.65	1.6	0.3	1.36
MVJ01P03	<8.00	4.5	6.6	45	<2.00	<1.00	<2.00	25,000	15,200	7,000	11.1	7.89	2.85	1.5	0.1	1.37
MVJ01P03	<8.00	6.6	9.7	47	<2.00	<1.00	<2.00	85,000	70,000	23,000	7.8	7.7	2.3	1.5	0.25	7.82
MVJ01P03	<8.00	7.9	39	53	<2.00	<1.00	<2.00	28,000	13,000	49,000	7.79	7.57	3.72	1.9		1.82
MVJ01P03	<8.00	13	38	40	<2.00	<1.00	<2.00	106,000	71,000	18,400	6.8	7.7	3.6	1.8	0.2	2.04
MVJ01P03	<8.00	7	16	30	<2.00	<1.00	<2.00	47,000	30,000	34,000	7.9	7.52	4.13	2.1	0.4	2.33
MVJ01P03	2.4	9.4	72	35	<0.50	<0.50	<0.50	77,000	21,000	27,000	11.4	7.46	36.1	2.6	0.02	1.11
MVJ01P03	<0.50	13	11	19	<0.50	<0.50	<0.50	320,000	56,000	19,000	7.79	7.01	1.47	1.9	0.27	1.38
MVJ01P03	1.7	15	14	27	<0.50	<0.50	<0.50	200,000	11,000	3,900	8.75	7.43	1.34	3.1	<0.05	1.4
MVJ01P03	<0.50	9.8	4.2	14	<0.50	<0.50	<0.50	80,000	62,000	19,000	7.57	7.52	1.66	2.1	0.07	1.37
MVJ01P03	<0.50	7.5	3.4	9.9	<0.50	<0.50	<0.50	54,000	33,000	5,900	7.24	7.44	24.7	2.1	0.18	1.45
MVJ01P03	1.1	16	7.8	21	<0.50	<0.50	<0.50	53,000	29,000	3,000	9.6	7.4	1.96	2.7	<0.05	1.02
MVJ01P03	<0.50	<0.50	<0.50	<2.00	<0.50	<0.50	<0.50	1,050,000	130,000	3,900	8.02	7.52	3.79	2.6	0.12	0.91
MVJ01P03	0.65	5.9	12	27	<0.50	<0.50	<0.50	230,000	13,000	37,000	7.27	7.47	2.29	1.9	0.14	1.37
MVJ01P03	0.52	4.9	9	15	<0.50	<0.50	<0.50	41,000	33,000	4,900	7.62	7.16	1.69	1.7	0.13	1.33
MVJ01P03	<0.50	11	7.5	17	<0.50	<0.50	<0.50	310,000	25,000	7,200	11.9	7.61	1.49	1.5	<0.05	1.29
MVJ01P03	0.53	4.4	17	22	<0.50	<0.50	<0.50	350,000	11,000	16,000	8.73	7.75	2.38	2	0.11	0.71
MVJ01P03	1.2	4.9	8.7	16	<0.50	<0.50	<0.50	5,800	1,000	15,000	8.11	7.6	2.15	1.8	0.13	1.22
MVJ01P03	<0.50	5.5	3.6	13	<0.50	<0.50	<0.50	>1,200,000	18,000	>120,000	5.79	7.77	675	1.9	0.32	1.38
MVJ01P03	<0.50	4.3	7.3	13	<0.50	<0.50	<0.50	110,000	18,000	11,000	7.67	7.74	1.95	2.1	0.37	1.48
MVJ01P03	<0.50	4.6	13	13	<0.50	<0.50	<0.50	50,000	28,000	7,700	7.59	7.73	1.95	1.6	0.12	1.38
MVJ01P03	<0.50	4.9	6.9	15	<0.50	<0.50	<0.50	32,000	3,800	4,200	8.78	7.52	1.66	2.7	0.43	2
MVJ01P03	<0.50	5.2	6.3	18	<0.50	<0.50	<0.50	>40,000	2,200	12,200	9.46	7.81	1.56	1.5	0.1	1.1
MVJ01P03	<0.50	5.8	4	15	<0.50	<0.50	<0.50	48,000	7,500	3,300	7.24	7.95	1.61	0.2	0.12	1.29
MVJ01P03	<0.50	6	6.2	25	<0.50	<0.50	<0.50	>121,000	29,000	13,700	8.68	7.41	5.29	2.5	0.27	1.43
MVJ01P03	<0.50	4.1	4.8	20	<0.50	<0.50	<0.50	102,000	15,000	10,000	10.78	8.15	3.86	2	0.14	1.29
MVJ01P03	0.56	5	6.7	17	<0.50	<0.50	<0.50	39,000	320	2,600	7.94	7.69	1.86	2	0.34	0.74
MVJ01P03	0.52	7.1	5.5	22	<0.50	<0.50	<0.50	29,000	870	7,400	8.77	7.5	1.72	2.1	0.1	1.6
MVJ01P03											8.78	7.94	1.7	2.2	0.33	1.4
MVJ07P02	<8.00	8	18	50	<2.00	<1.00	<2.00	2,180	1,260	750	12.66	7.9	195	2.1	<0.05	1.87

MVJ07P02	<8.00	12	6.7	57	<2.00	1.5	<2.00	52,000	27,000	48,000	6.12	7.73	12.5	1.7	<0.05	0.94
MVJ07P02	<8.00	4.9	8.9	50	<2.00	1.3	<2.00	10,500	8,700	9,500	8.35	7.97	11.3	0.7	0.32	0.74
MVJ07P02	<8.00	6.9	13	52	<2.00	<1.00	<2.00	13,600	2,400	6,200	11.84	8.13	3.38	3.3		2.05
MVJ07P02	<8.00	<4.00	12	34	<2.00	<1.00	<2.00	123,000	81,000	18,600	7.96	8.31	5.66	2.8	0.22	1.31
MVJ07P02	<8.00	13	79	380	<2.00	2	3.3	159,000	95,000	197,000	9.21	8.03	7.37	3.1	0.25	3.81
MVJ07P02	<0.50	6.9	6.8	15	<0.50	<0.50	<0.50	270,000	>120,000	5,900	8.91	7.74	1.86	3.7	0.13	1.44
MVJ07P02	<0.50	5.9	9	13	<0.50	<0.50	<0.50	20,000	9,000	11,000	8.7	7.89	1.75	2.2	<0.05	1.66
MVJ07P02	<0.50	7.6	4.9	54	<0.50	<0.50	<0.50	240,000	140,000	10,400	7.77	7.96	7.4	3	0.09	1.81
MVJ07P02	<0.50	4.5	9.4	23	<0.50	<0.50	<0.50	170,000	5,300	4,000	8.3	8.22	2.23	1.6	0.18	1.01
MVJ07P02	0.53	3.7	9.8	17	<0.50	<0.50	<0.50	46,000	30,000	8,200	8.36	7.94	8.31	1.4	0.08	1.35
MVJ07P02	0.64	5.8	14	19	<0.50	<0.50	<0.50	190,000	32,000	7,100	8.05	8.02	2.06	0.9	0.1	1.98
MVJ07P02	<0.50	5.3	8.9	15	<0.50	<0.50	<0.50	140,000	4,000	6,000	9.61	8.33	1.69	1.6	0.19	1.67
MVJ07P02	<0.50	5.3	8.6	35	<0.50	<0.50	<0.50	38,000	25,000	13,000	8.6	8.07	3.52	2.3	0.15	1.49
MVJ07P02	<0.50	6.3	8.4	27	<0.50	<0.50	<0.50	160,000	6,000	7,300	10.58	8.17	2.32	3.1	0.1	1.62
MVJ07P02	<0.50	3.8	7.6	11	<0.50	<0.50	<0.50	>72,000	22,000	9,600	5.77	8.1	2.17	2.2	0.16	1.44
MVJ07P02	<0.50	6.4	10	30	<0.50	<0.50	<0.50	52,000	21,000	9,500	7.41	8.17	4	2.1	0.28	1.1
MVJ07P02	<0.50	4.6	4.5	8.9	<0.50	<0.50	<0.50	>10,600	2,100	1,590	13.66	8.39	1.6	2.8	0.1	1.61
MVJ07P02											9.66	8.29	4.47	3.6	0.1	1.65
MVL02P14	<0.50	13	6.6	14	<0.50	1.4	<0.50	270,000	270,000	21,000	4.69	7.63	3.16	5.1	0.14	1.35
MVL02P14	<0.50	11	7.4	13	<0.50	1.9	<0.50	390,000	20,000	31,000	8.97	7.86	3.38	2.1	0.2	1.42
MVL02P14	<0.50	12	11	35	<0.50	1.3	<0.50	420,000	170,000	33,000	7.42	7.62	5.94	2.2	0.14	1.17
MVL02P14	<0.50	7.8	13	10	<0.50	1.6	<0.50	230,000	9,000	51,000		7.72	5.34	1.6	0.11	1.44
MVL02P14	<0.50	7.7	9	13	<0.50	1.1	<0.50	170,000	40,000	15,000	11.32	8.02	2.54	12.8	<0.05	1.22
MVL02P14	<0.50	4.2	6.9	8.5	<0.50	<0.50	<0.50	10,700	9,100	8,800	9.57	8.05	3.6	2.1	0.1	1.36
MVL02P14	<0.50	3.3	6.4	9.1	<0.50	<0.50	<0.50	270,000	4,500	21,000	8.85	8.05	2.97	1.5	0.09	1.52
MVL02P14	<0.50	3.5	5.6	7.1	<0.50	<0.50	<0.50	65,000	14,000	17,000	8.22	8.35	4.01	1.4	0.11	1.59
MVL02P14	<0.50	4	8.4	7.6	<0.50	<0.50	<0.50	190,000	16,000	28,000	8.27	8.21	4.75	1.7	0.1	1.81
MVL02P14	<0.50	3.4	4.8	7.6	<0.50	<0.50	<0.50	270,000	54,000	48,000	7.93	8.01	5.38	1.2	0.05	1.88
MVL02P14	<0.50	4.2	5.2	10	<0.50	0.57	<0.50	>64,000	11,500	7,000	9.3	8.2	6.53	2.3	0.08	1.05
MVL02P14	<0.50	3.7	4.7	8	<0.50	<0.50	<0.50	>35,000	5,300	12,900	5.19	8.08	2.76	2.1	0.11	0.81
MVL02P14	<0.50	3.8	5.4	7.6	<0.50	<0.50	<0.50	>84,000	32,000	10,000	8.86	8.37	3.92	2	0.12	1.02

MVL02P14	<0.50	5.3	4.6	6	<0.50	0.53	<0.50	>124,000	38,000	14,100	9.75	8.16	2.38	2.3	0.1	1.04
MVL02P14	<0.50	4.1	4.3	7.1	<0.50	<0.50	<0.50	150,000	84,000	71,000	11.64	8.02	90.7	2	0.15	1.2
MVL02P14	<0.50	4.3	6.8	9	<0.50	<0.50	<0.50	34,000	5,800	11,100	10.29	8.29	3.74	2.5	0.1	1.48
MVL02P14											9.38	8.13	3.09	1.9	0.1	1.05
MVL02P20	<8.00	<4.00	9	20	<2.00	<1.00	<2.00	400	155	190	10.73	8.57	9.64	1.8	0.06	1.21
MVL02P20	<8.00	<4.00	7.8	27	<2.00	<1.00	<2.00	8,100	3,400	6,600	9.79	7.37	3.45	1.3	0.07	1.4
MVL02P20	<8.00	4.3	15	27	<2.00	<1.00	<2.00	75,000	42,000	53,000	8.92	7.98	1.9	1	0.2	0.65
MVL02P20																
MVL02P20	<8.00	8.7	16	77	<2.00	<1.00	<2.00	52,000	28,000	42,000	9.12	8.24	6.94	0.9	0.4	1.31
MVL02P20	<8.00	4	9.1	35	<2.00	<1.00	<2.00	36,000	28,000	10,600	8.66	8.41	2.37	1.5	0.16	1.82
MVL02P20	<8.00	5.1	7.6	29	<2.00	<1.00	<2.00	88,000	58,000	9,850	9.13	8.14	4.95	1.7	0.1	1.7
MVL02P20	1.1	7.1	22	48	<0.50	0.5	0.8	280,000	>120,000	33,000	8.78	7.74	26.6	2.5	38.8	1.36
MVL02P20	<0.50	6.1	5	11	<0.50	<0.50	<0.50	340,000	47,000	12,000	8.63	8.23	1.72	3.5	<0.05	1.44
MVL02P20	<0.50	4.6	8.7	10	<0.50	<0.50	<0.50	120,000	75,000	21,000	8.89	7.89	2.5	2	<0.05	2.54
MVL02P20	0.62	5.3	9.7	15	<0.50	<0.50	<0.50	240,000	16,000	10,000	4.94	7.74	2.83	1.9	0.15	21.35
MVL02P20	<0.50	4	10	9.1	<0.50	<0.50	<0.50	40,000	5,700	7,600	9.7	7.99	2.8	2	0.12	1.25
MVL02P20	<0.50	3.7	6.7	9.3	<0.50	<0.50	<0.50	270,000	170,000	65,000		7.82	4.48	1	0.21	1.64
MVL02P20	<0.50	2	4.6	6.2	<0.50	<0.50	<0.50	5,800	3,700	8,800	10.91	8.27	2.86	2.2	0.06	1.06
MVL02P20	<0.50	2.3	7.9	11	<0.50	<0.50	<0.50	47,000	7,000	48,000	8.5	8.18	4.87	1.8	0.07	1.53
MVL02P20	<0.50	3	6.6	21	<0.50	<0.50	<0.50	250,000	10,000	11,200	9.48	8.38	3.36	1.3	0.25	1.26
MVL02P20	<0.50	3.7	7.9	32	<0.50	<0.50	<0.50	>45,000	4,100	12,000	9.28	8.22	2.7	2.6	0.22	1.27
MVL02P20	<0.50	2.7	8.1	15	<0.50	<0.50	<0.50	>98,000	49,000	23,000	9.27	8.24	2.71	3.5	0.1	2.11
MVL02P20	<0.50	2.7	6.7	8.5	<0.50	<0.50	<0.50	61,000	12,000	12,300	8.86	8.21	4.38	3	0.1	1.15
MVL02P20	<0.50	2.2	5.9	9.4	<0.50	<0.50	<0.50	3,100,000	8,000	102,000	9.78	8.19	3.43	2.1	0.13	0.92
MVL02P20											9.49	8.09	5.34	2.8	0.14	4.87
MVL03P09	<0.50	71	3.6	29	<0.50	18	<0.50	25,000	2,300	1,300	8.17	6.67	7.42	1.3	<0.05	1.07
MVL03P09	0.73	82	5.1	36	<0.50	19	<0.50	33,000	2,000	2,800	7.83	6.5	2.01	2.6	<0.05	1.17
MVL03P09	<0.50	130	4.8	45	<0.50	33	<0.50	28,000	16,000	700	7.48	6.82	1.96	<0.20	<0.05	0.79
MVL03P09	<0.50	97	3.3	40	<0.50	15	<0.50	47,000	35,000	5,400	6.91	6.74	5	2.4	<0.05	1.44
MVL03P09	<0.50	110	4.2	37	<0.50	29	<0.50	41,000	20,000	980	7.27	7.09	4.1	2.3	0.06	0.73

MVL03P09	<0.50	110	6	41	<0.50	26	<0.50	50,000	6,000	300	8.47	6.8	1.75	3.2	<0.05	0.86
MVL03P09	<0.50	87	5.2	49	<0.50	18	<0.50	170,000	30,000	26,000	8.07	6.97	12.3	2.9	<0.05	1.23
MVL03P09	<0.50	79	4.8	40	<0.50	24	<0.50	43,000	20,000	8,000	7.35	7.2	15.7	2.1	0.11	1.13
MVL03P09	0.68	62	11	31	<0.50	15	<0.50	80,000	40,000	12,000	6.98	6.59	15.8	3.2	0.09	1.62
MVL03P09	<0.50	98	3.9	37	<0.50	24	<0.50	41,000	29,000	4,200	13.68	7.43	3.71	3.3	0.12	0.93
MVL03P09	<0.50	100	5.1	45	<0.50	26	<0.50	55,000	1,900	1,070	7.37	6.8	3.93	2	0.05	1.28
MVL03P09	0.91	87	5	38	<0.50	23	<0.50	25,000	10,000	4,600	7.63	6.97	9.01	2.4	0.08	1.24
MVL03P09	<0.50	100	4.5	40	<0.50	26	<0.50	37,000	7,600	1,500	7.24	7.36	2.16	2.2	0.05	0.84
MVL03P09	<0.50	67	6.2	30	<0.50	16	<0.50	110,000	28,000	21,000	7.21	7.11	5.1	1.7	0.1	1.02
MVL03P09	<0.50	60	4.1	28	<0.50	16	<0.50	220,000	42,000	9,000	8.02	7.25	2.38	1.9	0.06	1.34
MVL03P09	<0.50	65	4.1	26	<0.50	17	<0.50	21,000	890	860	8.72	7.02	3.33	3.2	0.1	0.82
MVL03P09	<0.50	89	4.6	33	<0.50	22	<0.50	>4,600	370	1,900	8.67	6.98	2.83	2.8	0.11	0.65
MVL03P09	<0.50	28	2.1	16	<0.50	4.3	<0.50	>8,000	5,300	1,070	7.93	7.82	6.26	2.1	0.1	1.01
MVL03P09	<0.50	66	4.8	27	<0.50	15	<0.50	>116,000	54,000	11,000	8.75	6.98	3.67	2.8	0.1	0.85
MVL03P09	<0.50	64	3.5	32	<0.50	18	<0.50	20,000	3,000	4,100	12.38	7.4	3.44	2.2	0.1	0.77
MVL03P09	<0.50	99	4.5	35	<0.50	21	<0.50	>38,000	1,400	3,100	7.3	7.11	3.17	2.2	0.13	0.62
MVL03P09	<0.50	69	5.5	30	<0.50	15	<0.50	>55,000	2,900	6,600	8.21	7.13	9.75	2.6	0.1	1.04
MVL03P09											8.85	7.3	4.04	2.2	0.1	0.62
MVL03P11	<8.00	8.4	7.3	18	<2.00	1.1	<2.00	40	<10	<10	11.16	7.96	7.5	2.4	0.15	2.5
MVL03P11	<8.00	8.1	5.2	26	<2.00	1.6	<2.00	28,000	12,200	2,800	9.72	7.21	1.14	2.1	<0.05	1.23
MVL03P11	<8.00	6	9.4	23	<2.00	1.5	<2.00	62,000	48,000	7,800	3.05	8.26	1.11	0.5	0.28	0.28
MVL03P11	<8.00	10	7.7	41	<2.00	<1.00	<2.00	15,300	8,800	6,700	8.08	8.2	2.18	2	1.1	0.08
MVL03P11	<8.00	13	7.5	22	<2.00	1.1	<2.00	29,000	15,600	6,000	8.33	8.18	1.87	2.7	0.15	0.85
MVL03P11	<8.00	12	6.9	22	<2.00	1.1	<2.00	52,000	32,000	19,600	9.28	8.17	3.28	1.7	0.1	0.96
MVL03P11	<0.50	19	4	8.5	<0.50	0.71	<0.50	69,000	10,700	87,000	8.93	7.64	11.1	3.2	0.09	1.58
MVL03P11	<0.50	20	6.7	18	<0.50	1.3	<0.50	18,000	8,000	3,400	8.13	7.83	1.9	2.5	0.92	1.52
MVL03P11	<0.50	14	5.6	25	<0.50	0.76	0.5	330,000	150,000	>120,000	8.32	8.12	2.18	2.9	<0.05	1.67
MVL03P11	<0.50	28	18	33	<0.50	2.2	0.6	30,000	12,000	1,300	5.68	7.92	3.84	3.1	0.11	1.34
MVL03P11	<0.50	24	4.2	7.8	<0.50	0.94	<0.50	46,000	3,300	3,600	9.37	7.88	1.31	2.9	0.1	0.94
MVL03P11	<0.50	9.5	5.7	7.9	<0.50	0.69	<0.50	70,000	16,000	17,000	8.83	7.86	4.18	1.8	0.06	1.38
MVL03P11	<0.50	6.6	4.7	9.4	<0.50	0.58	<0.50	7,600	4,000	18,000	9.5	8.19	2.35	3.6	0.05	1.28

MVL03P11	2.8	5.3	5.8	6.9	<0.50	0.71	<0.50	23,000	2,100	4,400	8.41	8.14	3.33	2.4	0.1	1.02
MVL03P11	0.89	7.3	5.1	8.2	<0.50	<0.50	<0.50	56,000	11,000	3,500	9.03	8.19	12	1.8	0.05	0.99
MVL03P11	<0.50	9	5.6	14	<0.50	0.74	<0.50	>20,000	5,400	5,900	9.54	8.16	4.79	2.4	0.2	1.2
MVL03P11	<0.50	6	3.7	4.8	<0.50	0.66	<0.50	56,000	8,400	5,600	8.21	8.18	1.78	2	0.11	1.11
MVL03P11	<0.50	4.4	3.6	5.3	<0.50	<0.50	<0.50	46,000	6,600	10,100	11.65	8.6	2	2.2	0.1	0.93
MVL03P11											9.55	7.93	0.78	2.6	0.1	0.91
RSML02@AP	<0.50	3.7	1.9	7.2	<0.50	<0.50	<0.50	>68,000	4,800	10,000	9.01	8.02	1.59	2	0.1	1.59
RSML02@AP	<0.50	2.1	1.8	4.4	<0.50	<0.50	<0.50	27,000	2,000	9,400	9.77	8.09	5.85	2	0.1	0.61
RSML02@AP	<0.50	2.3	2.6	5.2	<0.50	<0.50	<0.50	>76,000	24,000	5,200	9.28	8.06	1.63	2	0.45	0.3
RSML02@AP	<0.50	4.5	2.9	14	<0.50	<0.50	<0.50	6,400,000	2,200,000	1,490,000	9.77	7.81	11.3	2.3	0.12	1.03
RSML02@AP	<0.50	6.8	2.4	5.6	<0.50	<0.50	<0.50	64,000	14,000	7,500	12.62	7.9	2.76	2	0.2	0.85
RSML02@AP	<0.50	5.7	2.3	5.7	<0.50	<0.50	<0.50	38,000	390	5,000	10.25	7.98	1.86	2	0.11	1.12
RSML02@AP											9.54	7.86	2.11	2	0.1	0.99
RSML02P25	<8.00	<4.00	9.3	27	<2.00	<1.00	<2.00	8,200	4,700	7,050	8.94	8.19	2.7	1.5	0.2	1.42
RSML02P25	<8.00	<4.00	3.3	35	<2.00	<1.00	<2.00	37,000	7,850	1,900	9.29	7.28	6.87	1.9	<0.05	1.31
RSML02P25	<8.00	<4.00	4.5	23	<2.00	<1.00	<2.00	36,000	22,000	66,000	9.57	7.95	3.47	1.4	0.07	0.35
RSML02P25	<8.00	<4.00	4.2	43	<2.00	<1.00	<2.00	34,000	27,000	11,000	9.26	8	2.98		<0.05	0.55
RSML02P25	<8.00	5.2	6.5	32	<2.00	<1.00	<2.00	42,000	19,800	21,000	9.51	7.94	2.89	1.5		1.43
RSML02P25	<8.00	4.8	3.2	25	<2.00	<1.00	<2.00	31,000	21,000	10,600	8.38	7.93	1.75	0.9		0.74
RSML02P25	<0.50	6.9	2.6	7.9	<0.50	<0.50	<0.50	45,000	15,000	3,800	9.67	7.5	1.62	2.3	<0.05	0.65
RSML02P25	<0.50	5.9	2.7	9.2	<0.50	<0.50	<0.50	41,000	8,000	6,300	8.89	8.02	2.92	3.1	<0.05	1.25
RSML02P25	<0.50	6.9	2.5	6.9	<0.50	<0.50	<0.50	130,000	23,000	5,000	8.75	7.96	1.6	2	<0.05	0.96
RSML02P25	<0.50	10	3.2	9.9	<0.50	<0.50	<0.50	50,000	12,000	530	8.86	7.87	1.28	2.5	0.07	0.79
RSML02P25	<0.50	9.6	3.6	16	<0.50	<0.50	<0.50	44,000	7,000	25,000	9.14	7.82	2.4	2	<0.05	1.56
RSML02P25	<0.50	2.2	4	7.7	<0.50	<0.50	<0.50	36,000	26,000	17,000	8.62	7.7	2.41	1.3	0.07	0.92
RSML02P25	<0.50	2.3	2.8	5	<0.50	<0.50	<0.50	48,000	17,000	5,800	9.81	7.9	1.64	2.1	0.05	1
RSML02P25	<0.50	2.3	3.3	4.8	<0.50	<0.50	<0.50	63,000	22,000	7,300	7.2	8.1	2.44	1.4	0.05	0.99
RSML02P25	<0.50	2.3	2.1	4.6	<0.50	<0.50	<0.50	51,000	32,000	10,000	8.81	8.01	2.11	4.1	0.05	1.93
RSML02P25	<0.50	3.3	3.7	7.1	<0.50	<0.50	<0.50	>9,000	1,700	3,100	9.37	7.97	1.25	2.1	0.1	0.83
RSML02P25	<0.50	2.6	2.8	4	<0.50	<0.50	<0.50	21,000	8,500	6,200	9.78	8.55	1.95	2	0.12	0.74

Administrative Record Page No. 025283

RSML02P25	<0.50	2.3	2.3	3.9	<0.50	<0.50	<0.50	>7,900	3,900	5,100	12.81	8.23	0.99	2	0.12	0.69
RSML02P25	<0.50	4.8	4	4	<0.50	<0.50	<0.50	>7,100	1,200	2,000	11.12	8.08	1.09	2	0.1	0.76
RSML02P28	<8.00	17	19	75	<2.00	<1.00	<2.00	10,000	5,600	5,150	8.55	8.23	25.8	1.1	0.3	0.85
RSML02P28	<8.00	17	19	75	<2.00	<1.00	<2.00	4,200	1,450	1,850	9.33	6.77	10.2	1.8	0.22	0.17
RSML02P28	<8.00	4.1	16	61	<2.00	<1.00	<2.00	37,000	2,800	7,600	8.81	7.85	5.22	1	0.45	0.23
RSML02P28	<8.00	6.1	15	63	<2.00	<1.00	<2.00	11,200	7,200	6,800	14	8.3	5.59	1.4	0.55	1.13
RSML02P28	<8.00	7.4	6.4	63	<2.00	<1.00	<2.00	6,400	1,460	3,400	9	7.96	42.8	1.8		0.97
RSML02P28																
RSML02P28	0.88	7.4	19	50	<0.50	<0.50	0.6	340,000	800	970	9.91	7.84	5.99	1.4	0.6	1.57
RSML02P28	<0.50	6	7.5	20	<0.50	<0.50	<0.50	31,000	21,000	1,500	9.08	8.05	2.3	2.1	0.08	1.38
RSML02P28	<0.50	4.1	2.6	13	<0.50	<0.50	<0.50	20,000	1,190	1,900	8.52	8.2	3.1	2	<0.05	0.55
RSML02P28	<0.50	3.3	2.4	17	<0.50	<0.50	<0.50	5,100	3,200	150	9.45	8.4	0.98	2	0.08	0.41
RSML02P28	0.52	8.9	21	120	<0.50	<0.50	<0.50	420,000	68,000	4,300	9.26	8.11	4.21	2.1	0.35	1.03
RSML02P28	3.8	1	6.6	4.7	<0.50	<0.50	<0.50	5,600	3,100	200	8.69	8.22	25.9	1.4	0.06	0.62
RSML02P28	<0.50	2	9.4	20	<0.50	<0.50	<0.50	400,000	27,000	52,000	9.97	8.97	5.18	2.7	0.06	1.76
RSML02P28	<0.50	1.5	7.1	12	<0.50	<0.50	<0.50	460,000	66,000	4,400	7.21	8.32	2.3	1.7	0.05	0.74
RSML02P28	<0.50	2.2	5.1	15	<0.50	<0.50	<0.50	16,000	3,000	1,400	9.04	8.4	1.09	2.3	0.05	0.94
RSML02P28	5.1	15	25	410	<0.50	<0.50	0.71	>38,000	4,400	6,400	9.83	8.46	8.75	2.4	0.42	6.3
RSML02P28	2	6.4	6.9	470	<0.50	<0.50	<0.50	>9,100,000	>8,400	240,000	8.63	8.29	11.9	3.6	0.43	0.54
RSML02P28																
RSML02P28	<0.50	3.7	6	15	<0.50	<0.50	<0.50	>11,800	1,100	2,100	11.6	8.45	1.78	2.7	0.1	0.72
RSML02P32	<8.00	<4.00	23	41	<2.00	<1.00	<2.00	29,000	18,000	24,800	6.91	7.98	5.89	3.6	<0.05	1.15
RSML02P32	<8.00	<4.00	22	34	<2.00	<1.00	<2.00	4,950	1,800	3,300	9.34	7.01	11.6	2.4	0.22	1.34
RSML02P32	<8.00	<4.00	11	24	<2.00	<1.00	<2.00	8,900	6,200	8,000	7.93	7.71	3.16	1.2	0.15	0.39
RSML02P32	<8.00	<4.00	6.7	70	<2.00	<1.00	<2.00	16,100	8,950	10,000	8.41	8.1	4.9	3.9	0.13	1.21
RSML02P32	<8.00	4.8	12	41	<2.00	<1.00	<2.00	31,000	24,000	50,000	9.21	8.02	1.93	3		1.68
RSML02P32	<8.00	5.4	9.4	31	<2.00	<1.00	<2.00	45,000	35,000	9,450	8.71	7.77	2.88	2.9		1.34
RSML02P32	<0.50	4.7	24	12	<0.50	<0.50	<0.50	52,000	40,000	1,900	9.44	7.36	2.82	4.6	0.07	0.96
RSML02P32	<0.50	3.9	5.3	21	<0.50	<0.50	<0.50	33,000	8,000	7,000	8.37	8.02	6.59	3.4	0.08	1.4
RSML02P32	<0.50	4.4	5.2	11	<0.50	<0.50	<0.50	20,000	8,600	6,500	8.42	7.92	1.6	3.1	<0.05	1.48

RSML02P32	0.59	5.9	9.9	18	<0.50	<0.50	<0.50	190,000	150,000	53,000	8.98	7.87	8.05	3.4	<0.05	0.97
RSML02P32	<0.50	5.6	15	20	<0.50	<0.50	<0.50	19,000	4,100	17,000	9.2	7.84	1.95	3.4	0.48	2.3
RSML02P32	<0.50	1.9	7.5	11	<0.50	<0.50	<0.50	58,000	25,000	43,000	8.57	7.79	2.85	2.7	0.1	29.9
RSML02P32	0.64	1.2	3.3	9.2	<0.50	<0.50	<0.50	6,100	4,400	1,220	9.65	8.16	0.61	2.9	0.08	0.8
RSML02P32	0.53	1.9	6.7	11	<0.50	<0.50	<0.50	680,000	580,000	86,000	6.98	8.07	6.56	1	0.06	3.77
RSML02P32	<0.50	1.3	3.8	10	<0.50	<0.50	<0.50	57,000	28,000	16,000	8.8	8.17	1.6	2.1	0.23	1.29
RSML02P32	2.1	2.2	3.6	15	<0.50	<0.50	<0.50	>12,600	4,400	5,800	10.23	8.23	1.98	3.2	0.1	0.89
RSML02P32	0.54	2.5	4.6	10	<0.50	<0.50	<0.50	28,000	8,800	8,600	8.79	8.11	1.59	3	0.1	0.83
RSML02P32	<0.50	2	4.4	6.1	<0.50	<0.50	<0.50	49,000	11,000	15,400	12.75	7.94	2.39	3.4	0.1	0.9
RSML02P32	<0.50	1.4	4.8	7.8	<0.50	<0.50	<0.50	27,000	3,000	11,000	9.65	8.19	1.85	2	0.1	0.76
RSML02P32											9.72	8.14	0.86	2.5	0.1	0.97
RSML02P45	<8.00	<4.00	10	36	<2.00	<1.00	<2.00	9,550	8,300	5,500	7.74	8.26	7.81	3.5	<0.05	1.33
RSML02P45	<8.00	<4.00	4.2	22	<2.00	<1.00	<2.00	2,900	2,700	6,550	7.18	6.9	4.17	4.5	<0.05	0.36
RSML02P45	<8.00	<4.00	4.9	27	<2.00	<1.00	<2.00	26,000	14,600	8,100	7.84	8.1	2.85	1	0.1	0.33
RSML02P45	<8.00	<4.00	4.3	34	<2.00	<1.00	<2.00	30,000	23,000	10,600	7.17	7.9	1.74	1.7		0.96
RSML02P45	<8.00	6.1	7.3	37	<2.00	<1.00	<2.00	7,800	6,300	6,600	9.15	8.13	3.56	2.9	<0.05	1.72
RSML02P45	<8.00	<4.00	3.6	26	<2.00	<1.00	<2.00	10,600	7,300	5,600	9.53	7.97	2.91	2.7		1.28
RSML02P45	<0.50	5.8	4.7	5.5	<0.50	<0.50	<0.50	41,000	9,300	10,000	7.57	7.88	10.4	2.6	0.13	0.77
RSML02P45	<0.50	4.5	9	14	<0.50	<0.50	<0.50	17,000	11,000	5,200	8.89	7.94	1.35	2.5	<0.05	1.47
RSML02P45	<0.50	4.6	3.5	7.7	<0.50	<0.50	<0.50	43,000	7,500	4,900	21.82	8.03	1.3	2.9	<0.05	1.14
RSML02P45	<0.50	5.5	4.7	9.6	<0.50	<0.50	<0.50	120,000	17,000	1,200	8.84	8.01	3.82	2.8	0.08	1.07
RSML02P45	<0.50	4.8	4.1	6.5	<0.50	<0.50	<0.50	40,000	15,000	5,400	9.17	8.08	2.81	2.9	0.11	1.35
RSML02P45	0.65	8	7.4	5.7	<0.50	<0.50	<0.50	39,000	8,000	12,000	8.1	7.85	3.57	1.5	0.7	2.38
RSML02P45	<0.50	1.3	2.5	7.2	<0.50	<0.50	<0.50	40,000	5,100	8,100	10.71	8.28	1.23	2.5	0.1	1
RSML02P45	<0.50	1.3	3	7.8	<0.50	<0.50	<0.50	61,000	5,200	3,900	9.43	8.22	1.98	2.1	0.1	0.96
RSML02P45	<0.50	1.4	2.4	4.3	<0.50	<0.50	<0.50	39,000	8,000	7,200			1.64	2	0.1	0.79
RSML02P45	<0.50	1.9	4.8	9.5	<0.50	<0.50	<0.50	>52,000	38,000	88,000	11.34	8.33	3.56	2.4	0.2	1.01
RSML02P45	0.67	2.6	7.7	17	<0.50	<0.50	<0.50	>39,000	17,000	7,200	8.65	8.19	4.74	4.6	0.7	1.5
RSML02P45	<0.50	2.4	3.3	4.4	<0.50	<0.50	<0.50	>57,000	5,000	60,000	12.84	8.05	1.82	2.4	0.1	1.15
RSML02P45	<0.50	1.2	3.6	5.7	<0.50	<0.50	<0.50	46,000	2,700	9,300	9.82	8.22	1.73	2	0.1	0.45
RSML02P45											9.92	8.13	3.36	2.3	0.1	0.57

Administrative Record Page No. 025285

RSML11P02	<8.00	<4.00	26	58	<2.00	<1.00	<2.00	26,400	10,600	11,300	10.53	7.96	8.8	2.4	0.9	1.44
RSML11P02	<8.00	<4.00	9	42	<2.00	<1.00	<2.00	16,300	7,400	9,900	8.1	8.5	3.59	<0.20	<0.05	2.65
RSML11P02	<8.00	<4.00	8.2	22	<2.00	<1.00	<2.00	41,000	25,000	33,000	19.01	8.24	8.75	2	<0.05	1.73
RSML11P02	<8.00	<4.00	9.3	35	<2.00	<1.00	<2.00				8.36	8.23	2.13	2.9	0.08	1.44
RSML11P02	<8.00	<4.00	7.1	26	<2.00	<1.00	<2.00	42,000	7,900	28,000	8.37	8.04	5.22	2.8	0.15	1.4
RSML11P02	<8.00	5.5	7.6	39	<2.00	<1.00	<2.00	114,000	45,000	116,000	12	7.8	5.4	2.2	0.1	1.59
RSML11P02	0.59	6.1	17	19	<0.50	<0.50	<0.50	800,000	6,700	2,300	7.6	7.98	2.65	1.5	0.45	1.63
RSML11P02	<0.50	4.3	4.9	11	<0.50	<0.50	<0.50	240,000	210,000	44,000	9.4	7.94	4.17	2.2	<0.05	1.93
RSML11P02	<0.50	4	6.7	17	<0.50	<0.50	<0.50	300,000	130,000	34,000	9.03	8.15	4.6	2.2	0.1	1.56
RSML11P02	0.64	10	36	180	<0.50	<0.50	<0.50	330,000	65,000	42,000	8.63	7.94	8.49	3	<0.05	2.08
RSML11P02	<0.50	5.1	9.1	15	<0.50	<0.50	<0.50	360,000	120,000	20,000	9.13	8.09	5.54	1.9	0.25	1.89
RSML11P02	<0.50	6	4.6	12	<0.50	<0.50	<0.50	150,000	90,000	23,000	8.64	7.91	4.34	1.5	0.1	1.71
RSML11P02	<0.50	2.4	12	12	<0.50	<0.50	<0.50	38,000	4,300	8,300	9.43	8.2	11	2.9	0.13	1.13
RSML11P02	<0.50	1.9	5.5	11	<0.50	<0.50	<0.50	190,000	22,000	23,000	9.32	8.16	3.46	2.3	0.09	1.27
RSML11P02	<0.50	2.6	4.5	8.5	<0.50	<0.50	<0.50	70,000	26,000	32,000			3.98	2.7	0.25	1.91
RSML11P02	<0.50	2.6	5.6	17	<0.50	<0.50	<0.50	34,000	5,900	13,200	11.03	8.32	3.73	2.4	0.18	0.87
RSML11P02	<0.50	2.8	8.6	13	<0.50	<0.50	<0.50	380,000	110,000	500,000	8.61	8.2	3.14	2.4	0.11	1.21
RSML11P02	<0.50	2.5	3.1	7.4	<0.50	<0.50	<0.50	680,000	38,000	42,000	12.92	7.93	3.8	2.2	0.12	1.31
RSML11P02	<0.50	1.8	6.5	8.4	<0.50	<0.50	<0.50	33,000	2,400	23,000	9.74	8.2	3.21	2.1	0.1	0.87
RSML11P02											9.77	8.2	8.14	2	0.1	0.74
SCBS@M02	<8.00	41	62	220	<2.00	3.2	4.3	78,000	37,000	58,000	5.23	7.89	18.8	2.6	2.6	12.76
SCBS@M02	<8.00	18	3.9	30	<2.00	1.9	<2.00	62,000	14,000	4,300	5.32	7.32	8.13	3.2	0.12	1.26
SCBS@M02	<8.00	18	7.1	44	<2.00	<1.00	<2.00	<10	<10	<10	5.23	8	10.2	1.8	0.3	0.27
SCBS@M02	<8.00	21	9.1	27	<2.00	<1.00	<2.00	14,500	27,000	78,000	1.69	8.04	5	0.9	0.55	0.22
SCBS@M02	<8.00	19	18	52	<2.00	2.2	<2.00	166,000	46,000	119,000	1.75	8.01	10.6	0.8	1.35	0.86
SCBS@M02																
SCBS@M02	<8.00	21	8.4	62	<2.00	<1.00	<2.00	10,400	8,850	12,700	7.66	8.19	7.48	4.4	0.38	2.02
SCBS@M02	<8.00	20	9	39	<2.00	<1.00	<2.00	64,000	37,000	11,200	8.85	8.18	7.82	4.7	0.13	1.27
SCBS@M02	<8.00	26	13	97	<2.00	<1.00	<2.00	<200,000	<200,000	129,000	7.98	8.13	6.5	3	0.45	1.69
SCBS@M02	<8.00	29	10	15	<2.00	<1.00	<2.00	28,000	20,222	49,000	14.4	8.3	6.7	4.4	0.15	1.04

SCBS@M02	<8.00	31	5.2	16	<2.00	<1.00	<2.00	7,900	4,800	2,100	14	8.3	33.7	2.32	0.2	1.36
SCBS@M02	<0.50	71	5.9	28	<0.50	4.5	<0.50	38,000	30,000	3,000	7.73	8.03	2.03	3	<0.05	0.52
SCBS@M02	<0.50	86	4.6	11	<0.50	1.4	<0.50	370,000	47,000	9,400	8.9	7.53	1.7	5.1	0.14	0.55
SCBS@M02	0.89	36	7	4.2	<0.50	1.6	<0.50	200,000	150,000	4,200	9.05	8.03	1.52	2.9	0.29	0.51
SCBS@M02	<0.50	67	6.1	11	<0.50	2	<0.50	720,000	190,000	240	8.8	8.02	1.8	3.3	<0.05	0.43
SCBS@M02	<0.50	54	9.2	3	<0.50	1.3	<0.50	310,000	45,000	1,700	8.88	8.05	1.2	5	<0.05	0.44
SCBS@M02	<0.50	45	5.8	16	<0.50	1.9	<0.50	200,000	58,000	730	8.43	8.04	1.22	5.1	0.44	0.35
SCBS@M02	<0.50	39	4.4	9.6	<0.50	1.6	<0.50	76,000	42,000	2,200	9.03	7.97	1.44	3.9	0.12	0.62
SCBS@M02	1.3	49	17	20	<0.50	1.6	<0.50	160,000	10	18,300	7.44	8.08	5.91	3.5	0.32	1.01
SCBS@M02	<0.50	34	9.3	14	<0.50	1.4	<0.50	1,190,000	480,000	4,100	7.92	7.87	1.71	3.3	0.5	0.73
SCBS@M02	<0.50	37	5.8	4.8	<0.50	0.53	<0.50	87,000	12,000	9,600	9.98	7.81	3.75	2.2	0.15	0.5
SCBS@M02	0.53	14	18	17	<0.50	1.5	<0.50	>1,200,000	>1,200,000	640	7.94	8.12	6.12	5.8	0.65	2.32
SCBS@M02	1.1	30	67	130	<0.50	1.2	1.1	270,000	6,300	62,000	8.1	8.19	113	4.5	5.2	2.92
SCBS@M02	<0.50	13	5.4	6.2	<0.50	<0.50	<0.50	36,000	7,700	5,500	9.5	8.06	5.26	3.4	0.05	0.83
SCBS@M02	<0.50	16	4.6	7.8	<0.50	<0.50	<0.50	30,000	1,700	4,900	9.48	8.16	4.19	4	0.05	0.97
SCBS@M02	0.73	14	5.8	23	<0.50	<0.50	<0.50	240,000	2,900	3,800	6.65	8.05	4	4.2	0.15	0.43
SCBS@M02	<0.50	17	5.2	9.4	<0.50	0.92	<0.50	390,000	6,100	3,100	9.72	8.21	4.65	2.3	0.23	0.56
SCBS@M02	<0.50	8.8	3.4	4.4	<0.50	<0.50	<0.50	51,000	2,800	3,900	8.92	8.28	2.98	2.8	0.11	0.54
SCBS@M02	<2.50	11	4	<10.00	<2.50	<2.50	<2.50	9,600,000	43,000	7,800	9.16	8.03	20.5	5.1	1.05	0.74
SCBS@M02	<0.50	10	3.9	8.6	<0.50	<0.50	<1.00	31,000	2,700	1,140	12.22	8.06	2.6	5.7	0.33	0.69
SCBS@M02	<1.00	11	13	8.8	<1.00	<1.00	<0.50	640,000	46,000	84,000	13.94	8.16	21.9	4.7	0.15	0.95
SCBS@M02	<1.00	13	4.5	9.1	<1.00	<1.00	<2.50	116,000	>99	8,400	10.85	8.21	1.45	2.8	0.24	0.45
SCBS@M02	<0.50	9.9	7.8	23	<2.50	<2.50	<2.50	95,000	2,200	42,000	15.85	8.21	3.15	4.9	0.19	0.51
SCM00P03	<8.00	15	12	62	<2.00	<1.00	<2.00	89,000	42,000	10,800	13.6	8.19	2.77	0.4	0.65	0.27
SCM00P03																
SCM00P03	<8.00	18	6.5	39	<2.00	<1.00	<2.00				8.07	7.75		2.4	0.35	0.69
SCM00P03	<8.00	19	8.2	36	<2.00	<1.00	<2.00	27,000	17,800	1,400	4.18	7.58	1.6	2.1	0.15	0.74
SCM00P03	0.53	24	13	81	<0.50	0.54	<0.50	370,000	4,600	13,000	9.08	7.65	3.35	2.9	0.18	1.4
SCM00P03	0.58	39	8.6	6.2	<0.50	1.1	<0.50	15,000	2,400	800	12.17	8.27	2.01	0.4	<0.03	0.6
SCM00P03	0.85	18	23	66	<0.50	0.78	1.1	37,000	31,000	2,500	9.52	8.14	4.43	4.4	1.02	2.95
SCM00P03	0.79	38	11	20	<0.50	0.85	<0.50	3,200	600	2,000	13.92	8.27	16.1	1.3	0.08	0.67

SCM00P03	1	9.9	14	500	<0.50	<0.50	<0.50	>1,200,000	5,100	7,400	9.08	8.25	22.9	1.8	4.3	1.49
SCM00P03	1.8	15	8.9	77	<0.50	<0.50	<0.50	160,000	21,000	11,000	9.73	8.22	4.49	1.9	0.7	1.37
SCM00P03	<0.50	10	6.7	47	<0.50	0.63	<0.50	2,800	1,200	1,100	9.94	8.28	2.66	2.5	0.09	1.48
SCM00P03	<0.50	14	6.6	62	<0.50	3.5	<0.50	3,800	500	600	5.79	8.21	4.85	2.1	0.05	1.26
SCM00P03																
SCM00P03	<0.50	19	5.8	52	<0.50	0.73	<0.50	>2,400	110	590	10.85	8.14	0.33	2	0.11	0.53
SCM00P03	0.51	14	4.6	48	<1.00	<1.00	<1.00	49,000	>130	8,200	8.71	8.01	4.8	2.2	0.1	0.83
SCM00P03	<2.00	16	5.7	15	<0.50	<0.50	<0.50	27,000	240	3,400	13.51	7.66	15.6	3.6	0.12	0.76
SCM00P03											9.8	8.06	7	2	0.1	1.26
SCM02XXX	<8.00	760	<2.00	130	<2.00	54	<2.00	16,000	2,850	12,650	10.54	7.89	7.82	6.7	<0.05	0.3
SCM02XXX	120	9.8	9.6	50	<2.00	<1.00	<2.00	3,800	3,100	1,760	8.87	8.1	403	1.3	0.45	0.18
SCM02XXX	<8.00	14	7.4	160	<2.00	<1.00	<2.00	12,000	6,100	3,900	9.33	8.27	13.5	0.7	0.1	1.56
SCM02XXX	<8.00	25	13	54	<2.00	5.4	<2.00	77,000	67,000	4,700	7.02	7.38	3.44	3.1	1.5	2.49
SCM02XXX																
SCM02XXX	<8.00	12	7.8	<10.00	<2.00	<1.00	<2.00	111,000	85,000	17,200	9.14	8.1	62.1	1.5		2.33
SCM02XXX	0.82	22	6.1	4.5	<0.50	0.52	<0.50	22,000	5,200	13,000	7.23	8.3	7.13	3.5	<0.05	1.5
SCM02XXX	0.54	29	5.2	4.1	<0.50	<0.50	<0.50	65,000	27,000	5,700	9.75	8.05	46.9	1.7	<0.05	1.28
SCM02XXX	0.58	24	4	3.3	<0.50	0.52	<0.50	25,000	12,000	4,800	9.6	8.13	3.1	1.8	0.06	1.51
SCM02XXX	0.64	11	5.3	7.6	<0.50	<0.50	<0.50	5,900	3,600	530	9.49	8.14	16.9	1.8	0.35	0.79
SCM02XXX	<0.50	7.6	6.9	11	<0.50	<0.50	<0.50	630	270	400	9.26	8.14	16.1	1.9	0.08	1.64
SCM02XXX	<0.50	12	5.9	75	<0.50	<0.50	<0.50	52,000	2,900	3,000	8.34	8.02	16.1	4	0.06	1.67
SCM02XXX	0.55	16	4.6	6.8	<0.50	0.53	<0.50	15,000	9,000	4,900	10.34	8.26	5.17	2.8	0.09	1.23
SCM02XXX	0.69	14	4.9	7.9	<0.50	0.56	<0.50	37,000	930	2,000	7.45	8.19	3.95	3.1	0.05	1.39
SCM02XXX	<0.50	7.8	3.7	18	<0.50	<0.50	<0.50	150,000	22,000	39,000	6.5	7.8	3.51	11.2	0.07	2.35
SCM02XXX																
SCM02XXX	0.52	12	6.4	9.9	<0.50	0.57	<0.50	32,000	2,600	2,400	11.26	8.08	676	4	0.11	1.1
SCM02XXX	<0.50	9.9	5.4	15	<0.50	0.62	<0.50	>44,000	28,000	51,000	11.48	8.16	6.2	3.1	0.12	3.11
SCM02XXX	<0.50	11	4.2	8	<0.50	0.52	<0.50	33,000	5,300	9,200	15.27	8.23	6.93	4.1	0.1	1.77
SCM02XXX											11.16	7.92	2.36	2.8	0.1	1.64
SCM03P01	<8.00	22	8	35	<2.00	3.3	<2.00	94,000	56,000	2,950	7.86	7.44	17.6	2	<0.05	0.53

SCM03P01	<8.00	17	8.4	19	<2.00	2	<2.00	59,000	5,000	3,200	7.08	7.8	4.88	3.2	0.15	1.98
SCM03P01	<8.00	26	9.2	53	<2.00	4.3	<2.00	4,500	3,200	5,900	7.83	7.47	6.94	1.1	0.1	0.41
SCM03P01	<8.00	37	9.3	63	<2.00	8.8	<2.00	8,000	2,800	6,000	7.67	7.34	3.07	2.6		1.24
SCM03P01	<8.00	14	7	21	<2.00	<1.00	<2.00	84,000	49,000	58,000	9.34	8.3	4.79	1.5	0.1	1.24
SCM03P01	<8.00	30	9	54	<2.00	5.9	<2.00	3,200	1,400	1,080	6.53	7.33	1.59	2.5	0.1	1.53
SCM03P01	0.5	42	5.8	22	<0.50	6.6	<0.50	36,000	30,000	8,000	5.02	7.3	2.03	3.4	<0.05	1.14
SCM03P01	<0.50	42	6.9	26	<0.50	7.9	<0.50	180,000	190,000	13,800	6.56	7.17	2.13	3.2	<0.05	1.12
SCM03P01	<0.50	35	5.5	19	<0.50	6.6	<0.50	48,000	16,000	6,200	7.55	7.48	2.5	2.9	<0.05	1.36
SCM03P01	0.58	66	5.3	40	<0.50	15	<0.50	28,000	2,400	800	7.56	7.4	0.85	5.3	<0.03	1.02
SCM03P01	<0.50	59	6.7	46	<0.50	13	<0.50	1,080,000	570,000	>1,200,000	7.59	7.57	2.57	3.6	0.28	2.06
SCM03P01	<0.50	57	6.1	37	<0.50	12	<0.50	450,000	50,000	86,000	4.8	7.71	2.56	4.8	0.18	1.94
SCM03P01	<0.50	60	5.3	32	<0.50	13	<0.50	4,600	50,000	500	6.24	7.44	1.12	5	0.1	0.99
SCM03P01	<0.50	73	7	45	<0.50	16	<0.50	290,000	27,000	20,000	4.81	7.63	1.4	5.4	0.07	1.19
SCM03P01	<0.50	81	4.5	54	<0.50	21	<0.50	5,000	3,000	500	6.47	7.43	1.82	5.6	0.05	1.27
SCM03P01	<0.50	11	5.3	13	<0.50	1.3	<0.50	>35,000	6,400	10,800	8.96	7.65	2.35	5.2	0.17	1.17
SCM03P01	<0.50	26	3.9	15	<0.50	3.5	<0.50	20,000	3,600	3,100	8.57	7.96	2.12	3.7	0.1	1.61
SCM03P01	<0.50	24	2.1	21	<0.50	2.4	<0.50	>8,000	2,700	7,400	10.67	8.2	2.53	4.7	0.1	1.21
SCM03P01											7.54	6.96	5.1	5.6	0.14	1.35
SJCL01@CC	<8.00	<4.00	5	56	<2.00	<1.00	<2.00	2,070	725	580	10.88	8.41	2.4	0.8	<0.05	0.82
SJCL01@CC	<8.00	6.9	13	370	<2.00	<1.00	6.1	39,000	960	1,030	10.2	7.62	5.43	6.4	<0.05	1.22
SJCL01@CC	<8.00	<4.00	3.5	17	<2.00	<1.00	<2.00	1,130	980	960	8.69	7.82	1.14	1.7	<0.05	0.44
SJCL01@CC	<8.00	<4.00	12	42	<2.00	<1.00	<2.00	8,200	4,300	6,100	7.6	8.21	6.72	0.8	0.18	0.16
SJCL01@CC	<8.00	<4.00	2.2	15	<2.00	<1.00	<2.00	8,700	3,300	3,900	9.7	8.29	0.88	0.9	<0.05	0.17
SJCL01@CC	<8.00	5.3	12	80	<2.00	<1.00	2.2	79,000	72,000	2,800	10.23	8.51	3.05	1.2	0.24	1.43
SJCL01@CC	<8.00	6.2	10	88	<2.00	<1.00	<2.00	4,700	3,300	1,290	4.24	7.84	10.9	1.3	0.15	1.68
SJCL01@CC	<8.00	5.1	7.2	40	<2.00	<1.00	<2.00	11,400	8,900	1,210	9.51	8.36	1.95	0.8	0.15	1.03
SJCL01@CC	<8.00	23	9.2	37	<2.00	<1.00	<2.00	73,000	58,000	87,000	14.6	8.2	6.4		0.1	3.85
SJCL01@CC	<8.00	7.1	10	150	<2.00	<1.00	<2.00	62,000	50,000	53,000	13.8	8.6	15.9		0.9	3.87
SJCL01@CC	<0.50	4.4	5.5	28	<0.50	<0.50	<0.50	30,000	400	3,000	8.11	8.26	1.97	2.7	0.08	0.77
SJCL01@CC	<0.50	10	15	460	<0.50	0.62	3.7	820,000	>100,000	103,000	8.2	7.53	2.4	1.4	0.45	5.02
SJCL01@CC	1.5	5.1	3.6	60	0.72	1.1	1.4	>1,200,000	>120,000	>120,000	7.36	7.87	2.11	0.9	0.6	1.15

Administrative Record Page No. 025289

SJCL01@CC	<0.50	4.4	3.5	25	<0.50	<0.50	<0.50	40,000	18,000	6,000	8.41	8.28	1.08	4.7	0.11	1.83
SJCL01@CC	<0.50	5	4.5	55	<0.50	<0.50	<0.50	24,000	7,900	1,500	8.29	8.08	2.1	2.8	0.14	1.82
SJCL01@CC	<0.50	8.2	8.6	49	<0.50	<0.50	<0.50	600,000	110,000	3,400	10.25	8.08	1.93	3.3	0.5	1.14
SJCL01@CC	<0.50	5.5	7.8	39	<0.50	<0.50	<0.50	710,000	9,200	3,000	8.75	8.07	4.3	1.4	0.22	1.61
SJCL01@CC	<0.50	6.1	6.9	45	<0.50	<0.50	<0.50	39,000	<10	7,700	9.09	8.21	1.6	1.5	0.15	1.56
SJCL01@CC	<0.50	1.9	6	31	<0.50	<0.50	<0.50	24,000	5,000	4,300	9.1	7.88	1.58	1.7	0.22	1.45
SJCL01@CC	<0.50	1.3	4.1	14	<0.50	0.64	<0.50	<10	<10	<10	0	8.34	0.34	1.6	0.12	0.23
SJCL01@CC	1.1	2.4	8.2	35	<0.50	<0.50	<0.50	30,000	3,000	1,000	9.06	8.12	6.51	2.1	0.18	0.74
SJCL01@CC	<0.50	5.9	13	500	<0.50	0.67	5.2	14,000	1,500	6,200	8.81	8.14	1.22	0.8	0.48	2.71
SJCL01@CC	<0.50	3.2	10	47	<0.50	<0.50	0.53	22,000	4,200	15,000	7.5	8.37	1.61		0.27	1.33
SJCL01@CC	<0.50	3.2	5.4	43	<0.50	<0.50	<0.50	540,000	220,000	84,000	8.99	8.03	1.58	1.8	0.3	2
SJCL01@CC	1.3	4.4	7.3	43	<0.50	<0.50	3	800,000	210,000	18,000	8.04	8.17	13.3	1.2	0.45	2.19
SJCL01@CC	<0.50	4.1	6.1	39	<0.50	<0.50	<0.50	6,400	5,600	2,400	9.74	8.3	4.51	2.3	0.3	1.46
SJCL01@CC	<0.50	2.9	5.6	41	<0.50	<0.50	<0.50	40,000	8,600	7,400	10.67	8.33	2.74	0.2	0.25	1.04
SJCL01@CC	<0.50	5.9	7.9	250	<0.50	<0.50	2	166,000	98,000	145,000	12.7	8.2	2.8	2.4	0.83	1.9
SJCL01@CC	<0.50	3.5	4.8	41	<0.50	<0.50	<0.50	>7,800	3,100	4,000	11.05	8.29	2.81	2	0.12	0.73
SJCL01@CC	<0.50	4.3	6.8	44	<0.50	<0.50	<0.50	410,000	48,000	13,100	8.95	8.33	5.48	2.5	0.18	1.16
SJCL01@CC	<0.50	3.2	5.1	30	<0.50	<0.50	<0.50	79,000	25,000	51,000	9.66	8.25	2.95	2	0.14	1.09
SJCL01@CC	<0.50	6	8	100	<0.50	<0.50	<0.50	7,900,000	24,000	58,000	10.59	8.22	3.81	2	0.36	0.52
SJCL01P03	<8.00	<4.00	15	19	<2.00	<1.00	<2.00	29,000	17,000	13,750	8.62	8.28	3.96	6	<0.05	0.63
SJCL01P03	<8.00	<4.00	6.2	96	<2.00	<1.00	<2.00	24,000	6,550	5,450	8.23	8.02	9.74	2.8	<0.05	0.61
SJCL01P03	<8.00	<4.00	4.1	19	<2.00	<1.00	<2.00	7,100	6,200	6,500	8.47	8.33	2.43	7	<0.05	0.88
SJCL01P03	<8.00	8.2	5.8	44	<2.00	<1.00	<2.00	12,400	9,750	5,200	9.72	8.36	3.6	2.5	0.08	1.02
SJCL01P03	<8.00	6.6	7.5	75	<2.00	<1.00	<2.00	52,000	44,000	10,000	7.57	8.23	3.17	5.6	<0.05	1.03
SJCL01P03	<8.00	5.7	12	25	<2.00	<1.00	<2.00	15,200	11,600	17,000	10.32	8.01	7.03	5.6		1
SJCL01P03	<0.50	13	3.8	13	<0.50	0.9	<0.50	100,000	2,800	5,400	8.4	7.69	2.65	5.9	<0.05	0.63
SJCL01P03	<0.50	9.5	3.3	10	<0.50	<0.50	<0.50	53,000	17,000	17,000	8.17	8.05	7.92	4.6	<0.05	4.36
SJCL01P03								270,000	48,000	30,000	8.01	8.22	16.7	2.9	0.07	3.01
SJCL01P03	0.52	11	2.8	9.1	<0.50	<0.50	<0.50	66,000	11,700	3,400	8.68	8.18	1.7	4.3	0.08	<0.06
SJCL01P03	<0.50	8.5	4.6	9.2	<0.50	<0.50	<0.50	85,000	1,400	34,000	7.65	7.98	64.3	4.2	0.13	2.09
SJCL01P03	0.56	3.7	11	25	<0.50	<0.50	1.2	140,000	18,000	17,000	6.71	8.21	227	3.5	0.25	1.74

Administrative Record Page No. 025290

SJCL01P03	<0.50	2.3	3	10	<0.50	<0.50	<0.50	19,000	5,900	6,100	8.72	8.18	3.4	4	0.08	0.95
SJCL01P03	<0.50	3.6	2.2	6	<0.50	<0.50	<0.50	30,000	3,400	8,900	8.11	8.3	2.97	4.4	0.1	1.36
SJCL01P03	<0.50	3.2	3.4	13	<0.50	<0.50	<0.50	47,000	5,400	7,600	7.5	8.05	52.3	3.3	0.35	1.34
SJCL01P03	<0.50	3.5	6.2	11	<0.50	<0.50	<0.50	>34,000	3,500	7,600	8.14	8.12	2.24	4	0.12	0.69
SJCL01P03	<0.50	2.5	2.6	2.9	<0.50	<0.50	<0.50	41,000	5,600	6,400	8.18	8.54	3.24	2	0.1	0.47
SJCL01P03	0.5	4.8	2.9	5.6	<0.50	<0.50	<0.50	32,000	3,600	8,100	13.68	8.33	0.66	3.3	0.1	0.68
SJCL01P03											8.82	8.2	3.71	2	0.1	1.21
SJCL01S01	<0.50	5.3	3.6	7.7	<0.50	<0.50	<0.50	31,000	3,800	3,300	9.61	8.14	1.92	3.1	0.12	0.61
SJCL01S01	0.53	5.8	5.6	14	<0.50	1.3	<0.50	>5,100	220	780	9.29	8.09	3.06	3.9	0.12	0.87
SJCL01S01	<0.50	1.6	2.2	16	<0.50	<0.50	<0.50	3,700	210	9,400	11.06	7.98	1.94	2	0.1	0.3
SJCL01S01	<0.50	7.3	4	13	<0.50	<0.50	<0.50	>39,000	13,000	10,900	9.85	8.07	9.53	4.1	0.1	1.17
SJCL01S01	<0.50	6.4	2.9	4.8	<0.50	<0.50	<0.50	21,000	3,400	8,800	9.47	8.06	1.67	3.6	0.1	0.86
SJCL01S01	<0.50	6.9	4.2	5.1	<0.50	<0.50	<0.50	>5,900	100	600	10.29	8.24	2.23	3.2	0.1	0.92
SJCL01S01	<0.50	3.1	4.4	5.8	<0.50	<0.50	<1.00	38,000	330	1,860	13.2	8.12	2.95	4.2	0.1	1.61
SJCL01S01											10.32	8.06	3.16	3.7	0.1	0.99
SJCL01TBN1	<0.50	4.3	12	9.5	<0.50	<0.50	<0.50	100,000	8,000	4,000	7.78	9.07	7.38	1.9	0.2	1.23
SJCL01TBN1	<0.50	5.2	11	11	<0.50	<0.50	<0.50	220,000	14,000	26,000	8.49	7.71	6.12	2.6	0.2	2.38
SJCL01TBN1	0.76	4.6	15	11	<0.50	<0.50	<0.50	140,000	38,000	16,000	8.94	7.99	10	2	0.08	1.86
SJCL01TBN1	93	92	23	87	<0.50	25	26	NR	NR	NR	8.02	8.1	6.1	1	0.1	1.2
SJCL01TBN1	0.59	6.8	4.1	18	<0.50	<0.50	<0.50	62,000	38,000	38,000	8.86	8.04	3.3	1.6	0.35	1.9
SJCL01TBN1	0.54	5	11	8.5	<0.50	<0.50	<0.50	23,000	8,000	3,900	9.51	8	3.23	3.6	0.18	1.51
SJCL01TBN1	0.85	4.8	13	8	<0.50	<0.50	<0.50	280,000	480	56,000	10.75	8.46	4.86	5.1	0.1	3.43
SJCL01TBN1	0.63	6.4	16	19	<0.50	<0.50	<0.50	24,000	3,200	10,000	11.27	8.5	3.46	3.9	0.25	2.73
SJCL01TBN1	<0.50	2.1	13	8.8	<0.50	<0.50	<0.50	470,000	54,000	57,000	9.99	8.17	4.65	3.3	0.18	3.65
SJCL01TBN1	<0.50	2.9	8.1	5.7	<0.50	<0.50	<0.50	210,000	22,000	12,000	12.3	8.1	2.41	1.8	<0.05	1.3
SJCL01TBN1	0.61	3.1	20	13	<0.50	<0.50	<0.50	102,000	20,000	15,000	3.94	8.21	3.63	6.3	0.8	2.94
SJCL01TBN1	<0.50	1.4	20	5.1	<0.50	<0.50	<0.50	6,300	790	5,100	9.28	8.17	1.32	2.7	0.11	3.77
SJCL01TBN1	<0.50	2.1	9.6	5.5	<0.50	<0.50	<0.50	36,000	13,000	56,000	0.2	8.16	2.2	3.1	0.05	3.51
SJCL01TBN1	<0.50	1.7	8.4	4.4	<0.50	<0.50	<0.50	32,000	1,600	4,100	8.51	8.11	5.2	2.2	0.1	1.37
SJCL01TBN1	<0.50	2.4	7.9	9	<0.50	<0.50	<0.50	63,000	15,000	4,000	6.4	8.18	3.46	2.9	0.25	3.26

SJCL01TBN1																
SJCL01TBN1	<0.50	2.7	9.9	9.9	<0.50	<0.50	<0.50	28,000	2,400	9,700	8.84	8.04	1.63	3.2	0.1	1.03
SJCL01TBN1	<0.50	2.9	8.2	12	<0.50	<0.50	<0.50	>75,000	3,800	11,100	11.95	8.06	3.33	4.3	0.3	2.44
SJCL01TBN1																
SJCL01TBN1	<0.50	2.9	6	4.2	<0.50	<0.50	<0.50	163,000	9,700	6,700	7.01	8.13	6.43	2.3	0.1	1.37
SJCL01TBN1	<0.50	3.9	9.3	12	<0.50	<0.50	<0.50	>24,000	>230	20,000	7.86	7.98	4.69	3	0.33	1.6
SJCL01TBN1	0.88	2.3	8.9	11	<0.50	<0.50	<0.50	>69,000	4,300	14,500	9.68	8.04	4.53	2	0.56	2.41
SJCL01TBN1																
SJCL02P02	<8.00	4.9	8.5	36	<2.00	<1.00	<2.00	87,000	42,000	50,660	7.08	7.99	6.31	0.9	0.2	2.9
SJCL02P02	24	35	77	2900	<2.00	3.2	16	98,000	41,000	3,450	4.61	7.46	19.4	2.1	<0.05	2.01
SJCL02P02	<8.00	4.3	11	41	<2.00	<1.00	<2.00	81,000	36,000	66,000	7.46	7.5	3.76	2.9	0.17	1.43
SJCL02P02	<8.00	6.9	22	190	<2.00	<1.00	<2.00	18,500	12,600	8,450	7.27	7.95	2.89	1.3	0.16	1.81
SJCL02P02	<8.00	6.4	10	84	<2.00	<1.00	6.2	>200,000	110,000	76,000	6.56	8.05	3.96	0.8	0.33	2.25
SJCL02P02	<8.00	7.9	5.9	69	<2.00	<1.00	<2.00	<200,000	58,000	170,000	5.26	7.55	12.4	0.9	0.6	2.97
SJCL02P02	<0.50	10	7.6	17	<0.50	<0.50	<0.50	180,000	6,000	3,800	6.63	7.44	1.46	1.4	0.08	1.52
SJCL02P02																
SJCL02P02	<0.50	4.4	2.2	6	<0.50	<0.50	<0.50	200,000	47,000	7,900	7.07	8.02	16.7	1.8	<0.05	1.56
SJCL02P02	<0.50	6.4	5.9	9.8	<0.50	<0.50	<0.50	40,000	4,800	3,800	10.46	8.1	2.02	0.7	0.06	<0.06
SJCL02P02	<0.50	6.9	6.4	18	<0.50	<0.50	<0.50	45,000	720	6,900	6.72	7.99	1.78	3.7	0.17	2.11
SJCL02P02	<0.50	4.5	4.1	10	<0.50	<0.50	<0.50	53,000	10,000	11,000	6.22	8.04	6.2	0.9	0.4	1.53
SJCL02P02	<0.50	7	7.7	27	<0.50	<0.50	<0.50	160,000	80,000	48,000	9.3	8.03	4.65	1.2	0.15	2.58
SJCL02P02	0.86	5.6	13	29	<0.50	<0.50	0.5	43,000	1,100	5,900	6.43	8.03	5.66	4.7	0.32	3
SJCL02P02	<0.50	2.6	4.2	8.9	<0.50	<0.50	<0.50	170,000	48,000	30,000	6.88	8.1	4.78	3	0.8	1.85
SJCL02P02	<0.50	3.9	8	19	<0.50	<0.50	<0.50	>41,000	2,500	2,800	12.8	8.61	2.31	1.8	0.42	1.25
SJCL02P02	0.86	7.3	14	85	<0.50	<0.50	1.4	480,000	80,000	44,000	5.57	8.04	17.2	1.1	1.15	1.82
SJCL02P02	<0.50	2.8	1.8	11	<0.50	<0.50	<0.50	99,000	11,900	30,000	12.09	8.2	3.18	2	0.2	1.44
SJCL02P02											12.35	8.29	6.8	2	0.78	1.92

Administrative Record Page No. 025292

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

FACT SHEET / TECHNICAL REPORT

FOR

ORDER NO. R9-2009-0002
NPDES NO. CAS0108740

WASTE DISCHARGE REQUIREMENTS

FOR

DISCHARGES OF RUNOFF FROM
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
DRAINING THE WATERSHEDS OF THE
COUNTY OF ORANGE,
THE INCORPORATED CITIES OF ORANGE COUNTY,
AND THE ORANGE COUNTY FLOOD CONTROL DISTRICT
WITHIN THE SAN DIEGO REGION

December 16, 2009

Administrative Record Page No. 025293

TABLE OF CONTENTS

LIST OF ACRONYMS AND ABBREVIATIONS 2
I. FACT SHEET FORMAT 4
II. CONTACT INFORMATION 5
III. PUBLIC PROCESS AND NOTIFICATION PROCEDURES 6
IV. BACKGROUND 7
V. PERMITTING APPROACH 10
VI. ECONOMIC ISSUES 12
VII. LEGAL AUTHORITY 19
VIII. FINDINGS 21
A. Basis For the Order 21
B. Regulated Parties 23
C. Discharge Characteristics 24
D. Runoff Management Programs 50
E. Statute and Regulatory Considerations 84
F. Public Process 101
IX. DIRECTIVES 102
A. Prohibitions and Receiving Water Limitations 102
B. Non-Storm Water Discharges 105
C. Non Storm Water Dry Weather Action Levels 108
D. Storm Water Action Levels 119
E. Legal Authority 122
F. Jurisdictional Runoff Management Program 124
F.1. Development Planning 124
F.2. Construction 138
F.3 Existing Development 144
F.4. Illicit Discharge Detection and Elimination 155
G. Watershed Runoff Management Programs 159
H. Fiscal Analysis 162
I. Total Maximum Daily Loads 165
J. Program Effectiveness Component 165
K. Reporting 167
L. Modification of Programs 170
M. Principal Permittee Responsibilities 171
N. Receiving Waters Monitoring and Reporting 172
O. Standard Provisions, Reporting Requirements, And Notifications 173
P. Attachment A – Basin Plan Prohibitions 174
Q. Attachment B – Standard Provisions 175
R. Attachment C – Definitions 176
S. Attachment D – Summary of Submittals 177
T. Attachment E - Receiving Waters and MS4 Discharge Monitoring and Reporting Program 178
U. Attachment F - Source Data 190

LIST OF ACRONYMS AND ABBREVIATIONS

ADT - Average Daily Traffic
ASBS - Area of Special Biological Significance
AST – Active Sediment Treatment
BAT - Best Available Technology
BIA - Building Industry Association of San Diego County
BMP - Best Management Practice
Basin Plan - Water Quality Control Plan for the San Diego Basin
BU – Beneficial Uses
CASQA - California Stormwater Quality Association
CCC - California Coastal Commission
CDFG - California Department of Fish and Game
CEQA - California Environmental Quality Act
CFR - Code of Federal Regulations
Copermittees - County of Orange, the 11 incorporated cities within the County of Orange in the San Diego Region, and the Orange County Flood Control District
CWA - Clean Water Act
CWC - California Water Code
CZARA - Coastal Zone Act Reauthorization Amendments of 1990
DAMP – Drainage Area Management Plan
ESAs - Environmentally Sensitive Areas
FR - Federal Register
GIS - Geographic Information System
HMP – Hydromodification Management Plan
IBI – Index of Biotic Integrity
IC/ID - Illicit Connections and Illicit Discharges
JRMP - Jurisdictional Runoff Management Plan
LARWQCB – California Regional Water Quality Control Board, Los Angeles Region
LID – Low Impact Development
MEP - Maximum Extent Practicable
MRP - Receiving Waters Monitoring and Reporting Program
MS4 - Municipal Separate Storm Sewer System
NOI - Notice of Intent
NPDES - National Pollutant Discharge Elimination System
NRDC - Natural Resources Defense Council
NURP - Nationwide Urban Runoff Program
OCVCD – Orange County Vector Control District
Regional Board – California Regional Water Quality Control Board, San Diego Region
RGOs - Retail Gasoline Outlets
ROWD - Orange County Copermittees' Report of Waste Discharge (application for NPDES reissuance)
RWLs - Receiving Water Limitations
SAL - Storm Water Action Level
SIC - Standard Industrial Classification Code
SSMP - Standard Storm Water Mitigation Plan
State Board - State Water Resources Control Board
SWMP - Storm Water Management Plan
SWPPP - Storm Water Pollution Prevention Plan
SWQPA - State Water Quality Protected Area
TAC - State Water Resources Control Board Urban Runoff Technical Advisory Committee
TIE - Toxicity Identification Evaluation
TMDL - Total Maximum Daily Load
USEPA - United States Environmental Protection Agency

Administrative Record Page No. 025295

USACE – United States Army Corps of Engineers
WDRs - Waste Discharge Requirements
WLA - Waste Load Allocation
WQC - Water Quality Criteria
WQBEL - Water Quality Based Effluent Limitations
WQMP – Water Quality Management Plan
WSPA - Western States Petroleum Association
WRMP - Watershed Runoff Management Plan

I. FACT SHEET FORMAT

This Fact Sheet briefly sets forth the principle facts and the significant factual, legal, methodological, and policy questions that the California Regional Water Quality Control Board, San Diego Region (Regional Board) considered in preparing Order No. R9-2009-0002. In accordance with the Code of Federal Regulations (CFR) title 40 parts 124.8 and 124.56, this Fact Sheet includes, but is not limited to, the following information:

A. Contact information
B. Public process and notification procedures
C. Background information
D. Permitting approach
E. Economic issues
F. Legal authority
G. Findings
H. Directives

Tentative Order No. R9-2008-0001 was distributed for review on February 9, 2007. A public hearing was subsequently held on April 11, 2007 in the City of Mission Viejo to receive oral comments from interested persons, and the Regional Board accepted written comments on the Tentative Order until April 25, 2007. Following review of the comments, a Revised Tentative Order was distributed on July 6, 2007 with a Response to Comments document (RTC 1). A second set of written comments were received on the revisions until August 23, 2007. Following review of the second round of written comments, the Regional Board further revised specific sections of the Order and distributed a second Response to Comments document (RTC 2). Tentative Order No. R9-2008-0001 was submitted to the Board for adoption on February 13, 2008. Upon review and comment, the Board chose not to adopt Tentative Order No. R9-2008-0001 and sent the Order back to staff with comments for changes. Tentative Order No. R9-2009-0002 was distributed for review on March 13, 2009. Written comments received on the tentative Order prior to June 19, 2009 were provided to Regional Board members for a public hearing regarding the Tentative Order held on July 1, 2009. On August 12, 2009, the sixth version of the Tentative Order was distributed for review. On November 18, 2009 an adoption hearing was held on the Tentative Order. The Regional Board directed staff to make specific changes and bring the Tentative Order back for consideration.

The Regional Board's files applicable to the issuance of Order No. R9-2009-0002 are incorporated into the administrative record in support of the findings and requirements of Order No. R9-2009-0002.

II. CONTACT INFORMATION

Regional Board

James Smith
Senior Environmental Scientist
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2732
858-571-6972 (fax)
email: jsmith@waterboards.ca.gov

Benjamin Neill,
Water Resource Control Engineer
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2983
858-571-6972 (fax)
email: bneill@waterboards.ca.gov

The Order and other related documents can be downloaded from the Regional Board website at http://www.waterboards.ca.gov/sandiego/programs/oc_stormwater.html.

All documents referenced in this Fact Sheet and in Order No. R9-2009-0002 are available for public review at the Regional Board office, located at the address listed above. Public records are available for inspection during regular business hours, from 8:00 am to 5:00 pm Monday through Friday. To schedule an appointment to inspect public records, contact Sylvia Wellnitz at 858-637-5593 or DiAnne Broussard at 858-492-1763.

Copermittees

County of Orange	City of Laguna Woods
Orange County Flood Control District	City of Lake Forest
City of Aliso Viejo	City of Mission Viejo
City of Dana Point	City of Rancho Santa Margarita
City of Laguna Beach	City of San Clemente
City of Laguna Hills	City of San Juan Capistrano
City of Laguna Niguel	

III. PUBLIC PROCESS AND NOTIFICATION PROCEDURES

The Regional Board followed the schedule listed below for the preparation of Order No. R9-2009-0002:

A. In April 2006 and July 2006, the Northern Watershed Unit of the Regional Board met with the Copermittees to discuss the Report of Waste Discharge (ROWD) and potential changes to the permit based on the annual reports and the tentative permit for San Diego County.
B. On August 18, 2006, the Regional Board received the ROWD for the permit renewal.
C. On October 20, 2006 the Regional Board provided written comments on the ROWD to the Copermittees.
D. On November 15, 2006, the Regional Board received the 2005-06 annual reports from the Copermittees for the existing permit.
E. On January 11, 2007, the Regional Board notified all known interested parties that an electronic email listserv had been established to provide information and notices on the reissuance of the municipal storm water NPDES permit for southern Orange County.
F. On February 9, 2007, the Regional Board released the tentative Order and notified interested parties of a planned workshop. Written comments were accepted until April 25, 2007.
G. A public workshop was held on March 12, 2007.
H. A public hearing of the tentative Order was conducted on April 11, 2007.
I. A revised tentative Order was released on July 6, 2007. Written comments were accepted until August 23, 2007.
J. A second revised tentative Order was released on December 12, 2007.
K. A public hearing was conducted on February 13, 2008. The Regional Board chose not to adopt the tentative Order, and sent it back to staff for revision.
L. On March 13, 2009 the Regional Board released a fourth version of the revised tentative Order and notified interested parties of a planned workshop.
M. On April 03, 2009 and May 06, 2009 the Regional Board held public workshops.
N. A public hearing of the tentative Order was held on July 01, 2009.
O. On August 12, 2009 the Regional Board released an additional version of the revised tentative Order for public review. Written comments were accepted until September 28, 2009.
P. An adoption hearing of the tentative Order was conducted on November 18, 2009. The Regional Board chose not to adopt the tentative Order and directed staff to make specific changes.

IV. BACKGROUND

Tentative Order No. R9-2009-0002 is the fourth iteration of the storm water permit for the municipal separate storm sewer systems (MS4s) in the Orange County portion of the San Diego region. The first permit was adopted in 1990, and the permit was reissued in 1996 and 2002.

Municipal Storm Water Permits are required by the Federal Clean Water Act 1987 Amendments. The federal Clean Water Act (CWA) was amended in 1987 to address storm water runoff from municipal and industrial dischargers. One requirement of the amendment was that many municipalities throughout the United States were obligated for the first time to obtain National Pollutant Discharge Elimination System (NPDES) permits for discharges of storm water runoff from their MS4s. In response to the CWA amendment (and the pending federal NPDES regulations which would implement the amendment), the Regional Board issued a municipal storm water permit, Order No. 90-38, in July 1990 to the Copermittees for their MS4 discharges.[1]

The First and Second Term Permits, Order Nos. 90-38 and 96-03, provided maximum flexibility. Order No. 90-38 contained the "essentials" of the 1990 regulations, but the requirements were written in very broad, generic terms. This was done in order to provide the maximum amount of flexibility to the Copermittees in implementing the new requirements (flexibility was, in fact, the stated reason for issuing the permit in advance of the final regulations). This lack of specificity was reflected in the Drainage Area Management Plan (DAMP) implemented under this First Term Permit in 1993 and renewed under the Second Term Permit in 1996. From staff's perspective however, this same lack of specificity, combined with the lack of funding and political will, also provided the Copermittees with ample reasons to take few substantive steps towards permit compliance. The situation was exacerbated by the Regional Board's own lack of storm water resources.

By 2000 the Regional Board and Copermittees recognized the importance of an improved storm water program. Although renewed in 1996 as Order No. 96-03, the 1993 DAMP implemented by the Copermittees was not significantly updated until 2000. The 2000 DAMP submitted to the Regional Board for the Third-Term Permit renewal was improved over the earlier DAMP. Regional Board staff concluded, however, that it reflected only the basic requirements of the 1990 Federal Regulations and in most cases did not represent significant improvement over the 1993 DAMP. Continued implementation of the DAMP without amendment would not have adequately addressed the impacts to receiving waters resulting from the discharge of storm water runoff and would not have achieved the maximum extent practicable standard (MEP) as defined in the Order.

[1] The 1990 permit was issued to the County of Orange, the Orange County Flood Control District, and six incorporated cities. Additional municipalities have been added to the MS4 NPDES permit as they have incorporated.

In order to provide the Copermittees with the minimum requirements to meet the MEP standard for storm water of the Regional Board, a more detailed Order was adopted (Order No. R9-2002-01) that emphasized the strong jurisdictional level programs developed by the Copermittees during the First and Second Term Permits as well as the watershed-level approach embodied in the proposed DAMP.

The Third-Term Permit introduced specific requirements. The regulatory approach incorporated into Order No. R9-2002-01 was a significant departure from the regulatory approach of the First and Second-Term Permits. Where Order Nos. 90-38 and 96-03 included broad, nonspecific requirements in order to provide the Copermittees with the maximum amount of flexibility in developing their programs, Order No. R9-2002-01 used detailed, specific requirements which outlined the minimum level of implementation required for the Copermittees' programs. The shift in permitting approaches resulted from the Regional Board's conclusion that the lack of specificity in earlier Orders resulted in frequently unenforceable permit requirements, which in turn allowed some Copermittees to only make limited progress in implementing their programs.

The Third-Term Permit followed the San Diego County permit template. The shift in regulatory approaches for MS4 permits was first manifested in the 2001 MS4 permit to the owners and operators of San Diego County MS4s (Order No. R9-2001-01). The Third-Term Orange County Permit included similar requirements as the 2001 San Diego County Permit. Both the San Diego and Orange County Permits were appealed to the State Water Resources Control Board (State Board).[2] Minor modifications of each were made by the State Board, but the vast majority of the requirements were upheld. The San Diego County permit was also challenged in the Superior Court of the State of California and the Court of Appeal, Fourth Appellate District. Further litigation on the Orange County permit was held pending the precedential decisions on the San Diego Permit. The San Diego Permit was largely upheld in the Superior and Appellate Courts. The State of California Supreme Court declined to hear a final appeal from the Building Industry Association in March 2005. Thus, the Third-Term Orange County permit requirements remained as slightly modified by the State Board.

[2] Seven petitions were filed with the State Board over the Third-Term Orange County Permit. Six were placed in abeyance. Three of the petitioners sought stays. One stay request was dismissed and one was withdrawn. The active petition and stays were addressed by the State Board in Order No. WQO 2002-0014. That Order stayed provision F.5.f regarding sewage spills and modified Finding No. 26 regarding chronic toxicity.

The Third-Term Permit was adopted following substantial public participation. Public participation was extensive during the adoption process of the Third-Term Permit. The draft permit was released for public review and comment on July 2, 2001, and revised in response to comments and State Board Order WQ 2001-15 on the petition to review the San Diego Municipal Storm Water Permit. Because the proposed requirements for Orange County were similar to those that had recently been adopted and contested in San Diego County, much of the public participation dialogue echoed the discussions held during the San Diego renewal. Approximately 684 comments were received and responded to during two public workshops and a written comment period on the Tentative Order for the Third-Term Orange County permit. Following the extensive public participation process, the Regional Board adopted Order No. R9-2002-01 on February 13, 2002.

Storm water programs have improved under the Third-Term Permit. Since adoption of Order No. R9-2002-01, the Copermittees' storm water programs have expanded dramatically. Audits of the Copermittees' programs and reviews of annual reports exhibit that the Copermittees' jurisdictional programs are largely in compliance with the Order. Some of the efforts currently being conducted on a regular basis by the Copermittees that were not conducted on a widespread basis prior to adoption of Order No. R9-2002-01, include: construction site storm water inspections, industrial and commercial facility storm water inspections, municipal facility storm water inspections, management of storm water quality from new development, development of BMP requirements for existing development, interdepartmental coordination, comprehensive water quality monitoring, and assessment of storm water program effectiveness.

Significant challenges remain. When viewed relative to the magnitude of the storm water runoff problem, enormous challenges remain, particularly regarding the management of storm water runoff on a watershed scale. Today, storm and non-storm water discharges from the MS4 continue to be the leading cause of water quality impairment in the San Diego Region.[3] The Copermittees' monitoring data exhibits persistent exceedances of water quality objectives in most watersheds.[4] Many watersheds also have conditions that are frequently toxic to aquatic life. Bioassessment data from the watersheds further reflects these conditions, finding that macroinvertebrate communities in creeks have widespread Poor to Very Poor Index of Biotic Integrity ratings. Finally, the now too familiar "health advisory" or "beach closure" signs, which often result from high levels of bacteria in storm and non-storm water, exhibit the continued threat to public health by such discharges.

[3] The potential sources of impairments are identified on the CWA section 303(d) list of impaired water bodies for the San Diego Region.
[4] Data is provided in annual reports to the Regional Board. A summary of data collected during the third-term permit is provided in the Copermittees' application for permit reissuance. That summary is available on-line at: http://www.ocwatersheds.com/StormWater/documents_ROWD.asp

V. PERMITTING APPROACH (PROGRAM INTEGRATION, FLEXIBILITY, AND DETAIL)

The Order contains an increased emphasis on storm water discharge management on a watershed basis. This shift towards increased watershed management is consistent with planning efforts conducted by the Regional Board regarding reissuance of the San Diego Permit (Order No. R9-2007-0001), and it is also consistent with the Copermittees' most recent Report of Waste Discharge (ROWD).[5] This shift reflects recognition of the maturity of the storm water programs since they began implementing the Third-Term Permit. Addressing storm water discharge management on a watershed basis is only possible if effective jurisdictional programs have been established, and maintaining effective jurisdictional programs is crucial to the success of watershed-focused management.

There are several reasons for this shift in emphasis. First, the Copermittees are generally doing an effective job at implementing their jurisdictional programs; while on the other hand, an emphasis on watersheds is necessary to shift the focus of the Copermittees from program development and implementation to water quality results. After over 15 years of Copermittee program implementation, it is critical that the Copermittees link their efforts with positive impacts on water quality. Addressing storm water on a watershed scale focuses on water quality results by emphasizing the receiving waters within the watershed. The conditions of the receiving waters drive management actions, which in turn focus on the water quality problems in each watershed.

Focusing on watershed implementation does not mean that the Copermittees must expend funds outside of their jurisdictions. Rather, the Copermittees within each watershed are expected to collaborate to develop a watershed strategy to address the high priority water quality problems within each watershed. They have the option of implementing the strategy in the manner they find to be most effective. Each Copermittee can implement the strategy individually within its jurisdiction, or the Copermittees can group together to implement the strategy throughout the watershed.

While the Order includes a new emphasis on addressing storm water discharges on a watershed basis, the Order includes recognition of the importance of continued program implementation on jurisdictional and countywide levels. The Order also acknowledges that jurisdictional, watershed, and countywide efforts are not always mutually exclusive. For this reason, an attempt has been made to allow for the Copermittees' jurisdictional, watershed, and countywide programs to integrate.

[5] The Report of Waste Discharge (ROWD) was submitted to the Regional Board on August 18, 2006 by the Principal Permittee (County of Orange) on behalf of all Copermittees.

In the Order, the watershed requirements serve as the mechanism for this program integration. Since jurisdictional and countywide activities can also serve watershed purposes, such activities can be integrated into the Copermittees' watershed programs, provided the activities meet certain criteria. In this manner, the Copermittees' activities do not always need to distinguish between jurisdictional, watershed, and countywide levels of implementation. Instead, they can be integrated on multiple levels.

Such opportunities for program integration inherently provide flexibility to the Copermittees in implementing their programs. Program integration can be expanded or minimized as the Copermittees see fit. For example, there is flexibility provided in determining the activities to be integrated and implemented in the watershed programs – watershed-based efforts, countywide efforts, enhanced jurisdictional efforts, or a mixture of the three. Significant flexibility is also provided throughout other portions of the Order.

Copermittees can choose the best management practices (BMPs) to be implemented, or required to be implemented, for development, construction, and existing development areas. Flexibility to determine which industrial or commercial sites are to be inspected is also provided to the Copermittees. Educational approaches are also to be determined by the Copermittees under the Order. Implementation of certain efforts on a countywide basis is largely optional for the Copermittees as well. Significant leeway is also provided to the Copermittees in using methods to assess the effectiveness of their various runoff management programs. This flexibility is further extended to the monitoring program requirements, which allow the Copermittees to develop monitoring approaches to several aspects of the monitoring program.

The challenge in drafting the Order is to provide the flexibility described above while ensuring that the Order is still enforceable. To achieve this, the Order frequently prescribes minimum measurable outcomes, while providing the Copermittees with flexibility in the approaches they use to meet those outcomes. Enforceability has been found to be a critical aspect of the Order. For example, the watershed requirements of Order No. R9-2002-01 were some of the Order's most flexible requirements. This lack of specificity in the watershed requirements resulted in inefficient watershed compliance efforts. This situation reflects a common outcome of flexible permit language. Such language can be unclear and unenforceable, and it can lead to implementation of inadequate programs.

To avoid these types of situations, a balance between flexibility and enforceability has been crafted into the Order. Minimum measurable outcomes are utilized to ensure the Order is enforceable, while the Copermittees are provided flexibility in deciding how they will implement their programs to meet the minimum measurable outcomes.

GENERAL CRITERIA

Non-storm water discharges may contain pollutants which result from various activities that occur within areas draining into the MS4. This includes, but is not limited to, illicit discharges and connections, exempted categories of discharge not a source of pollutants (40 CFR 122.26(d)), and discharges into the MS4 covered under a separate NPDES permit. As such, existing and proposed discharges of non-storm water from MS4s:

a) Result from similar activities through the MS4 system;
b) Are the same type of water;
c) Require similar effluent limitations for the protection of the Beneficial Uses of the receiving waters;
d) Require similar monitoring;
e) Are under the control of the owner and operator of the MS4 system; and
f) Are more appropriately regulated under a general permit than individual permits.

VI. ECONOMIC ISSUES

Economic discussions of storm and non-storm water management programs tend to focus on the significant costs incurred by municipalities in developing and implementing the programs. However, when considering the cost of implementing the programs, it is also important to consider the alternative costs incurred by not fully implementing the programs, as well as the benefits which result from program implementation. For instance, unhealthful coastal water quality conditions negatively affect residents, tourists, and related portions of the Orange County economy.[6]

[6] Orange County 2006 Community Indicators Project. 2006. Sponsored by the County of Orange, the Orange County Business Council, and the Children and Families Commission of Orange County. Available on-line at www.oc.ca.gov/ceocommunity.asp

It is very difficult to ascertain the true cost of implementation of the Copermittees' management programs because of inconsistencies in reporting by the Copermittees. Reported costs of compliance for the same program element can vary widely from city to city, often by a very wide margin that is not easily explained.[7] Despite these problems, efforts have been made to identify management program costs, which can be helpful in understanding the costs of program implementation. The Orange County Municipalities plan to prepare a common fiscal reporting strategy to better define the expenditure and budget line items included in annual reports.[8]

Estimates of Phase I Storm Water Program Costs.

The United States Environmental Protection Agency (USEPA), the California Regional Water Quality Control Boards, and the State Board have attempted to evaluate the costs of implementing municipal storm water programs. The assessments demonstrate that true costs are difficult to ascertain and reported costs vary widely. Nonetheless, they provide a useful context for considering the costs of requirements within Tentative Order No. R9-2008-0001. In addition, reported fiscal analyses tend to neglect the costs incurred to municipalities when storm water runoff is not effectively managed. Such costs result from pollution, contamination, nuisance, and damage to ecosystems, property, and human health.

In 1999 USEPA reported on multiple studies it conducted to determine the cost of management programs. A study of Phase II municipalities determined that the annual cost of the Phase II program was expected to be $9.16 per household. USEPA also studied 35 Phase I municipalities, finding costs to be $9.08 per household annually, similar to those anticipated for Phase II municipalities.[9] The USEPA cost estimate for Phase I municipalities is valuable because it considers municipalities in Orange County.

A study on program cost was also conducted by the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB), where program costs reported in the municipalities' annual reports were assessed. The LARWQCB estimated that average per household cost to implement the MS4 program in Los Angeles County was $12.50.[10] Since the Los Angeles County permit is very similar to Order No. R9-2002-01, this estimate is also useful in assessing general program costs in Orange County.

[7] LARWQCB, 2003. Review and Analysis of Budget Data Submitted by the Permittees for Fiscal Years 2000-2003. P. 2.
[8] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region)
[9] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68791-68792.
[10] LARWQCB, 2003. Review and Analysis of Budget Data Submitted by the Permittees for Fiscal Years 2000-2003. P. 2.

The State Board also recently commissioned a study by the California State University, Sacramento to assess costs of the Phase I MS4 program. This study includes an assessment of costs incurred by Phase I MS4s throughout the State to implement their programs. Annual cost per household in the study ranged from $18-46, with the City of Encinitas in San Diego County representing the upper end of the range.[11] Although no Orange County municipalities were assessed, the cost of the City of Encinitas' program may be somewhat representative of the upper range of Orange County MS4 programs. Encinitas shares similarities with southern Orange County, including the similarity of the San Diego MS4 permit to the Orange County MS4 permit, the city's coastal location, and its reliance on tourism. However, the City's program cost can be considered as the high end of the spectrum for management program costs because the City has a consent decree with environmental groups regarding its program, and City of Encinitas has received recognition for implementing a superior program.

It is important to note that reported program costs are not all attributable to compliance with MS4 permits. Many program components, and their associated costs, existed before any MS4 permits were ever issued. For example, street sweeping and trash collection costs cannot be solely or even principally attributable to MS4 permit compliance, since these practices have long been implemented by municipalities. Therefore, true program cost resulting from MS4 permit requirements is some fraction of reported costs. The California State University, Sacramento study found that only 38 percent of program costs are new costs fully attributable to MS4 permits. The remainder of the program costs were either pre-existing or resulted from enhancement of pre-existing programs.[12] In 2000, the County of Orange found that even lesser amounts of program costs are solely attributable to MS4 permit compliance, reporting that the amount attributable to implement the Drainage Area Management Plan (DAMP), was less than 20 percent of the total budget. The remaining 80 percent was attributable to pre-existing programs.[13]

Estimating Costs of Reissued Storm Water Permits

The vast majority of costs that will be incurred as a result of implementing Order No. R9-2009-0002 are not new. Storm water management programs have been in place in Orange County for over 15 years. Any increase in cost to the Copermittees will be incremental in nature. Moreover, since Order No. R9-2009-0002 "fine tunes" the requirements of Order No. R9-2002-01, these cost increases are expected to be modest.

[11] State Water Board, 2005. NPDES Stormwater Cost Survey. P. ii.
[12] Ibid. P. 58.
[13] County of Orange, 2000. A NPDES Annual Progress Report. P. 60. More current data from the County of Orange is not used in this discussion because the County of Orange no longer reports such information.

The anticipated costs of program changes are difficult to estimate because of the flexibility inherent within the Permit and the recognition that program modifications will vary among the municipalities in response to the specific needs of the local and watershed programs. In other words, the Permit is intended to allow each Permittee to de-emphasize some program components and strengthen others based on the experience of the jurisdictional programs.

The changes in Order No. R9-2009-0002 reflect the iterative process of BMP implementation and the necessarily adaptive nature of storm water management that is expected by the USEPA. In 1996, USEPA recognized that changes to MS4 programs would occur during the reapplication period based on new information on the relative magnitude of a problem, new data on water quality impacts of the storm water discharges, and experience gained under the prior permit.[14] Some program changes have been proposed by the Copermittees in the permit reapplication package, and others have been included because the Regional Board considers those measures necessary and feasible to protect water quality from the effects of MS4 discharges.

Other Economic Considerations.

Economic considerations of management programs cannot be limited only to program costs. Evaluation of programs requires information on the implementation costs and information on the benefits derived from environmental protection and improvement.[15] Attention is often focused on program costs, but the programs must also be viewed in terms of their value to the public.

For example, household willingness to pay for improvements in fresh water quality for fishing and boating has been estimated by USEPA to be $158-210.[16] This estimate can be considered conservative, since it does not include important considerations such as marine waters benefits, wildlife benefits, or flood control benefits. The California State University, Sacramento study corroborates USEPA's estimates, reporting annual household willingness to pay for statewide clean water to be $180.[17] When viewed in comparison to household costs of existing management programs, household willingness to pay estimates exhibit that per household costs incurred by Copermittees to implement their management programs remain reasonable.

[14] Federal Register / Vol. 61, No. 155 / Friday, August 9, 1996 / Rules and Regulations. Interpretive policy memorandum on reapplication requirements for MS4s.
[15] Ribaudo M.O. and D. Heelerstein. 1992, *Estimating Water Quality Benefits: Theoretical and Methodological Issues.* U.S. Department of Agriculture. Technical Bulletin No. 1808.
[16] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68793.
[17] State Board, 2005. NPDES Stormwater Cost Survey. P. iv.

The effect of storm and non-storm water discharges on receiving waters can also influence the value of real estate in southern Orange County. For instance, recent marketing of new developments in the region prominently features access or proximity to the ocean.[18] This demonstrates the added value of healthy aquatic environments to property values. The real estate industry recognizes that home buyers are willing to pay for access to clean water environments. The ability to market water-based recreational activities is dependent on healthy water quality conditions.

Municipalities and business groups in Orange County recognize the value of programs to prevent and treat storm water pollution in Orange County. For instance, both coastal and inland Orange County cities positively promote their access to the Pacific Ocean as a valuable quality of life feature.[19] In addition, the South Orange County Regional Chamber of Commerce's legislative policy for infrastructure includes the support of programs and solutions for non-point source storm water runoff. This demonstrates that the business community realizes the negative economic effects that result from polluted storm water.

Another important way to consider management program costs is to consider implementation in terms of costs incurred by not improving the programs. Storm and non-storm water discharges from MS4s in southern California has been found to cause illness in people bathing near storm drains.[20] A study of south Huntington Beach and north Newport Beach (both located in northern Orange County) found that an illness rate of about 0.8 percent among bathers at those beaches resulted in about $3 million annually in health-related expenses.[21] Extrapolation of such numbers to the wide range of beaches of Orange County could result in huge public expenses.

[18] Examples include the "Marblehead Coastal" project in San Clemente (http://www.marbleheadonthecoast.com), the "Pacifica San Juan" project in San Juan Capistrano (http://pacificasanjuan.com), and "The Strand at Headlands" in Dana Point (http://strandoc.com).
[19] For a coastal city, see Laguna Beach Overview at http://www.lagunabeachcity.net/about/overview. For an inland city, see the Lake Forest 2005 Economic Profile at http://www.thearbor.info/pdf/2005%20Economic%20Profile.pdf.
[20] Haile, R.W., et al, 1996. An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Santa Monica Bay Restoration Project.
[21] Dwight, R.H., et al., 2005. Estimating the Economic Burden From Illnesses Associated With Recreational Coastal Water Pollution – A Case Study in Orange County, California. Journal of Enviro. Management Vol.76. No.2 p.95-103. Also reported in: Los Angeles Times, May 2, 2005. Here's What Ocean Germs Cost You: A UC Irvine Study Tallies the Cost of Treatment and Lost Wages for Beachgoers Who Get Sick.

Storm and non-storm water MS4 discharges, and their impact on receiving waters also affect tourism. In past years, Orange County was featured in the national press for its water quality problems. Such news is likely to have a negative impact on tourism, since polluted beaches are generally not attractive to tourists. According to the Orange County Community Indicators Project, the County's visitors spent an average of $107.70 per day in 2004.[22] The experience of Huntington Beach provides an example of the potential economic impact of poor water quality. Approximately eight miles of Huntington Beach were closed for two months in the middle of summer of 1999, severely impacting beach visitation. When considered with the number of visitors and their average expenditure, the negative effects to the local economy are obvious.

Coastal tourism is an important industry in Orange County and is dependent upon effective management of storm water pollution and the prevention of non-storm water pollution. The following examples reflect that relationship.

> DANA POINT: In response to a Grand Jury finding (1999-2000 Rainy Season's First Flush Hits the Harbors of Orange County), the city of Dana Point notes the interrelationship between the clean coastal water and the economic health of the city. Dana Point reports receiving $5.2 million in transit occupancy tax funds in FY 1999-2000 "due in large part because of proximity to the beach. Without clean beaches, Dana Point risks losing its major revenue source."[23] More recently, the City budget report estimates that transit occupancy taxes comprise 35 percent of general fund revenues for the 2006 fiscal year.
>
> LAGUNA BEACH: Tourism is one of the primary components of the Laguna Beach economy, and the beach is one of the main tourist attractions in the city. In 1999, hotel/motel bed tax revenue was approximately $3 million, representing 13 percent of the City's general fund revenue.[24] In 2006, the City expects transit occupancy taxes to represent about 11 percent of general fund revenue.[25] The proportional decrease is due to an increase in property taxes, which is also affected in part by the quality of coastal waters. The City Council recognizes the value of the beaches to tourists, and the local population and has funded several low-flow non-storm water diversion systems in an attempt to prevent beach pollution and beach closures.

[22] Orange County 2006 Community Indicators Project. 2006. Sponsored by the County of Orange, the Orange County Business Council, and the Children and Families Commission of Orange County. Available on-line at www.oc.ca.gov/ceocommunity.asp
[23] Orange County Grand Jury. 1999-2000 Rainy Season's First Flush Hits the Harbors of Orange County.
[24] Laguna Beach at a Glance. May 2000. Prepared by Moore Iacofano Goltsman, Inc.
[25] City of Laguna Beach, adopted budget 2006-2007. Available on-line at: http://www.lagunabeachcity.net/government/reference/budget07

DOHENY STATE BEACH: In 1997, the U.S. Army Corps of Engineers (USACE) prepared an economic analysis as part of the San Juan Creek and Aliso Creek Watershed Study. Recreational value for Doheny State Beach, based on annual visitation of 670,545 people in 1995, was calculated at $2,850,000. Furthermore, the USACE notes that lifeguards reported that beach attendance falls dramatically when there are unhealthy conditions in the ocean. In 1999, the USACE prepared an updated economic study as part of the Feasibility Phase of the San Juan Creek Watershed Management Study. The 1999 study reports that average beach attendance from 1996 to 1998 increased to 918,735. The USACE places a recreation value per visitor at $5.76, which implies the annual recreational value of Doheny State Beach for 1996 to 1998 was $5,291,914.

ALISO BEACH: In 1997, the USACE prepared an economic analysis as part of the San Juan Creek and Aliso Creek Watershed Study. Recreational value for Aliso Beach, based on annual visitation of 3,477,369 people in 1995, was calculated at $14,779,000. In the 1999 Draft Feasibility Report for the Aliso Creek Watershed Management Study, the USACE noted that the average beach attendance from 1996 to 1998 decreased to 1,148,374. The recreation value per visitor was calculated at $4.50 and the average annual impact from water quality-related beach closures at Aliso Beach Park was estimated to be $468,392. This number is comparable to an economic analysis conducted as part of the Aliso Creek Watershed 205(j) study that estimated the annual average recreational value impact of beach closures at Aliso Beach Park to be $468,400.

Finally, it is important to consider the benefits of management programs in conjunction with their costs. A recent study conducted by the University of Southern California and University of California, Los Angeles assessed the costs and benefits of implementing various approaches for achieving compliance with the MS4 permits in the Los Angeles Region. The study found that non-structural systems would cost $2.8 billion but provide $5.6 billion in benefit. If structural systems were determined to be needed, the study found that total costs would be $5.7 to $7.4 billion, while benefits could reach $18 billion.[26] Costs are anticipated to be borne over many years – probably ten years at least. As can be seen, the benefits of the programs are expected to considerably exceed their costs. Such findings are corroborated by USEPA, which found that the benefits of implementation of its Phase II storm water rule would also outweigh the costs.[27]

Additional discussion of economic issues can be found at section 3 of the Fact Sheet/Technical Report for Regional Board Order No. R9-2002-01, available at:

http://www.waterboards.ca.gov/sandiego/programs/oc_stormwater.html.

[26] LARWQCB, 2004. Alternative Approaches to Stormwater Control.
[27] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68791.

VII. LEGAL AUTHORITY

The following statutes, regulations, and Water Quality Control Plans provide the basis for the requirements of Order No. R9-2009-0002: Clean Water Act (CWA), California Water Code (CWC), 40 CFR Parts 122, 123, 124 (National Pollutant Discharge Elimination System Permit Application Regulations for Storm Water Discharges, Final Rule), Part II of 40 CFR Parts 9, 122, 123, and 124 (National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule), Water Quality Control Plan – Ocean Waters of California (California Ocean Plan), Water Quality Control Plan for the San Diego Basin (Basin Plan), 40 CFR 131 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Rule (California Toxics Rule), and the California Toxics Rule Implementation Plan.

The legal authority citations below generally apply to directives in Order No. R9-2009-0002, and provide the Regional Board with ample underlying authority to require each of the directives of Order No. R9-2009-0002. Legal authority citations are also provided with each permit section discussion in section IX of this Fact Sheet/Technical Report.

CWA 402(p)(3)(B)(ii) – The CWA requires in section 402(p)(3)(B)(ii) that permits for discharges from municipal storm sewers "shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers."

CWA 402(p)(3)(B)(iii) – The CWA requires in section 402(p)(3)(B)(iii) that permits for discharges from municipal storm sewers "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

40 CFR 122.26(d)(2)(i)(B,C,E, and F) – Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B,C,E, and F) provide that each Copermittee's permit application "shall consist of: (i) Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to: […] (B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer; (C) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water; […] (E) Require compliance with condition in ordinances, permits, contracts or orders; and (F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer."

Administrative Record Page No. 025312

40 CFR 122.26(d)(2)(iv) – Federal NPDES regulation 40 CFR 122.26(d)(2)(iv) provides that the Copermittee shall develop and implement a proposed management program which "shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. […] Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. […] Proposed management programs shall describe priorities for implementing controls."

40 CFR 122.26(d)(2)(iv)(A - D) – Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A - D) require municipalities to implement controls to reduce pollutants in storm water runoff from new development and significant redevelopment, construction, and commercial, residential, industrial, and municipal land uses or activities. Prevention of illicit discharges is also required.

CWC 13377 – CWC section 13377 provides that "Notwithstanding any other provision of this division, the State Board or the regional boards shall, as required or authorized by the CWA, as amended, issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with anymore stringent effluent standards or limitation necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance."

Order No. R9-2009-0002 is an essential mechanism for achieving the water quality objectives that have been established for protecting the beneficial uses of the water resources in the San Diego Regional Board's portion of Orange County. Federal NPDES regulation 40 CFR 122.44(d)(1) requires MS4 permits to include any requirements necessary to "achieve water quality standards established under CWA section 303, including State narrative criteria for water quality." The term "water quality standards" in this context refers to a water body's beneficial uses and the water quality objectives necessary to protect those beneficial uses as established in the Basin Plan and antidegradation policies.

VIII. FINDINGS

The findings of the Order have been modified to reduce repetition in their discussions and address new requirements. Each finding of the Order is provided and discussed below. Additional discussion relative to the findings can be found in section IX of the Fact Sheet, which provides discussions of the Order's directives.

A. Basis For the Order

Finding A.1. This Order is based on the federal Clean Water Act (CWA), the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000), applicable state and federal regulations, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (State Board), the Water Quality Control Plan for the San Diego Basin adopted by the Regional Board, the California Toxics Rule, and the California Toxics Rule Implementation Plan.

Discussion of Finding A.1. In 1987, Congress established CWA Amendments to create requirements for storm water discharges under the NPDES program, which provides for permit systems to regulate the discharge of pollutants. Under the Porter-Cologne Water Quality Control Act, the State Board and the nine Regional Water Quality Control Boards have primary responsibility for the coordination and control of water quality, including the authority to implement the CWA. Porter-Cologne (section 13240) directs the Regional Water Quality Control Boards to set water quality objectives via adoption of Basin Plans that conform to all State policies for water quality control.

As a means for achieving those water quality objectives, Porter-Cologne (section 13243) further authorizes the Regional Water Quality Control Boards to establish waste discharge requirements (WDRs) to prohibit waste discharges in certain conditions or areas. Since 1990, the San Diego Regional Board has issued area-wide MS4 NPDES permits. The Order will renew Order No. R9-2002-01 to comply with the CWA and attain water quality objectives in the Basin Plan by limiting the contributions of pollutants conveyed by storm water and by including numeric action levels for dry weather non-storm water discharges designed to ensure that the Copermittees comply with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into their MS4. Further discussions of the legal authority associated with the prohibitions and directives of the Order are provided in section VII this document.

Finding A.2. This Order renews National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108740, which was first issued on July 16, 1990 (Order No. 90-38), and then renewed on August 8, 1996 (Order No. 96-03) and February 13, 2002 (Order No. R9-2002-01). On August 21, 2006, in accordance with Order No. R9-2002-01, the County of Orange, as the Principal Permittee, submitted a Report of Waste Discharge (ROWD) for renewal of the MS4 Permit.

Discussion of Finding A.2. This Order renews National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108740, which was first issued on July 16, 1990 (Order No. 90-38), and then renewed on August 8, 1996 (Order No. 96-03) and February 13, 2002 (Order No. R9-2002-01). On August 21, 2006, in accordance with Order No. R9-2002-01, the County of Orange, as the Principal Permittee, submitted a Report of Waste Discharge (ROWD) for renewal of the MS4 Permit. Supporting information discussing the topic of this finding can be found in section V of this document.

Finding A.3. This Order is consistent with the following precedential Orders adopted by the State Water Resources Control Board (State Board) addressing municipal storm water NPDES Permits: Order 99-05, Order WQ-2000-11, Order WQ 2001-15, Order WQO 2002-0014, and Order WQ-2009-0008 (*SWRCB/OCC FILE A-1780)*.

Discussion of Finding A.3. In recent years the State Board has considered several appeals of MS4 permits issued by the Regional Boards. In Order 99-05, the State Board established language for Receiving Water Limitation Language for MS4 permits. In Order No. WQ-2000-11, the State Board addressed design standards for Standard Urban Storm Water Mitigation Plan (SUSMP) requirements. Order WQ 2001-15 addressed Petitions of the San Diego County MS4 Permit issued by the Regional Board in 2001 (Order No. R9-2001-01). Order WQO 2002-0014 addresses Petitions of the Orange County MS4 Permit issued by the Regional Board in 2002 (Order No. R9-2002-01).

B. Regulated Parties

Finding B.1. Each of the persons in Table 1 of the Order, hereinafter called Copermittees or dischargers, owns or operates a municipal separate storm sewer system (MS4), through which it discharges storm water and non-storm water into waters of the United States within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) an MS4 which contributes to a violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the United States.

Discussion of Finding B.1. Section 402 of the CWA prohibits the discharge of any pollutant to waters of the United States from a point source, unless that discharge is authorized by a NPDES permit. Though storm water and non-storm water may come from a diffuse source, it is discharged through MS4s, which are point sources under the CWA. Federal NPDES regulation 40 CFR 122.26(a) (iii) and (iv) provide that discharges from MS4s, which service medium or large populations greater than 100,000 or 250,000 respectively, shall be required to obtain a NPDES permit. Federal NPDES regulation 40 CFR 122.26(a)(v) also provides that a NPDES permit is required for "A [storm water] discharge which the Director, or in states with approved NPDES programs, either the Director or the USEPA Regional Administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States." Such sources are then designated into the program.

Other small MS4s, such as those serving universities and military installations, also exist within the watersheds of Orange County in the San Diego Region. While these MS4s are not subject to this Order, they are subject to the Phase II NPDES storm water regulations. Over time, these MS4s will be designated for coverage under the State Board's statewide general storm water permit for small MS4s.

C. Discharge Characteristics

Finding C.1. Runoff discharged from an MS4 contains waste, as defined in the California Water Code (CWC), and pollutants that adversely affect the quality of the waters of the State. The discharge of runoff from an MS4 is a "discharge of pollutants from a point source" into waters of the U.S. as defined in the CWA.

Discussion of Finding C.1. Section 13050(d) of the CWC defines "waste" as "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal." 40 CFR 122.2 defines "point source" as "any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff." 40 CFR 122.2 defines "discharge of a pollutant" as "Any addition of any pollutant or combination of pollutants to waters of the U.S. from any point source." Also, the justification for control of pollution into waters of the state can be found at CWC section 13260(a)(1). State Board Order WQ 2001-15 verifies that discharges from the MS4 contain waste.[28]

The term urban runoff has been removed throughout Tentative Order R9-2009-0002 and replaced with storm water (wet weather) or non-storm water (dry weather) runoff. This clarification is necessary to prevent the misunderstanding that regulation under this permit is subject only to urbanized areas. The term "urban runoff" is not defined in the Code of Federal Regulations or Federal Register in the regulation of phase 1 MS4 discharges.

The discharge of runoff from an MS4 is a "discharge of pollutants from a point source" into waters of the U.S. as defined in the Clean Water Act (CWA). The Permit defines runoff as all flows in a storm water conveyance system (MS4 defined below) and consists of the following components:

(1) storm water (wet weather flows) and
(2) non-storm water discharges (dry weather flows).

The Permit defines an MS4 as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

[28] State Board, 2001. Order WQ 2001-15. In the Matter of Petitions of Building Industry Association of San Diego County and Western States Petroleum Association: For Review of Waster Discharge Requirements Order No. 2001-01 for Urban Runoff from San Diego County [NPDES No. CAS0108758] Issued by the Regional Board.

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designated or used for collecting or conveying storm water;

(iii) Which is not a combined sewer;

(iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.26.

Permit finding D.3.c. includes natural streams that convey runoff as part of the MS4. The presence of an MS4 system is not limited to areas considered to be "urban" in nature. Though the term urban is often referred to specifically as pertaining to cities, runoff means all flows in a storm water conveyance system, regardless of the location of the conveyance system. A conveyance system owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law), may be located in a setting (e.g. unincorporated area, low density residential) that is not considered by the public to be "urban" in nature. These areas are contributing pollutants to the MS4 system that must be addressed. The term runoff applies to all flows in an MS4 system, no matter where the MS4 may be located in regards to incorporated or unincorporated property.

The Code of Federal Regulations (CFR) at 40 CFR 122.26 requires that large and medium MS4s obtain a permit for all discharges from their systems. Appendix I to 40 CFR 122 designates Orange County as having a large and medium MS4 requiring a permit. The regulations do not differentiate discharges from urban or rural MS4 systems. Rather, the regulations require the permit for all discharges from their systems. In the Final Rule establishing the Phase 1 storm water regulations, the USEPA clarified that all discharges are subject to a permit. On page 48041 of the Final Rule, the USEPA states:

> "EPA recognizes that some of the counties addressed by today's rule have, in addition to areas with high unincorporated urbanized populations, areas that are essentially rural or uninhabited and may not be the subject of planned development. While permits issued for these municipal systems ***will cover*** *(emphasis added) municipal systems discharges in unincorporated portions of the county* (emphasis added), it is the intent of EPA that management plans

> and other components of the programs focus on the urbanized and developing areas of the county."

So, while the Permit covers all MS4 discharges regardless if that discharge is in an urban or unincorporated area; the Copermittees management program should focus on urbanized areas. Due to the Permit's requirements, the Copermittees management programs will naturally focus on urbanized areas. Urbanized areas have more industry, construction, pollution and MS4s that require more inspection, maintenance, monitoring, enforcement and complaint follow-up.

USEPA further clarified on page 48041 that all MS4 discharges require permit coverage when addressing highway MS4 systems:

> "[The regulations] will result in discharges from separate storm sewer systems serving State highways and other highways through storm sewers … in unincorporated portions of specified unincorporated portions of specified counties being included as part of the large or medium municipal separate storm sewer systems, since all municipal separate storm sewers within the boundaries of these political entities are included."

In their summary on page 48043, the USEPA states:

> "The definition [of MS4] provides that all systems within a geographical area including highways and flood controls will be covered, thereby avoiding fragmented and ill-coordinated programs;"

Neither the State Board's storm water permit for Caltrans (Order No. 99-06-DWQ) nor the Los Angeles Regional Board's draft MS4 permit for Ventura County include the term "urban runoff" in a significant regulatory capacity. The Caltrans permit has one reference to "urban runoff" where the term is used interchangeably with "storm water." The draft Ventura permit uses the term "urban runoff" when referring to titles of reference documents, previously adopted management plans and municipal ordinances that may contain the phrase.

Understandably, the Copermittees have expressed concern regarding the regulation of pollutants from natural, undeveloped areas that enter the MS4 in an unincorporated area. The MS4 collection could change a natural sheet flow discharge to a concentrated point discharge. The MS4 does not provide natural infiltration or other pollutant remediation that these flows would receive in an otherwise natural drainage system. The MS4 may concentrate these natural pollutants and flows. In some cases, the MS4 may ultimately discharge the elevated concentrations of natural pollutants and flow rates to waters of the US far from the natural pollutant and flow source, causing a condition of pollution or a violation of water quality standards.

Administrative Record Page No. 025319

Finding C.2. MS4 storm water and non-storm water discharges are likely to contain pollutants that cause or threaten to cause a violation of surface water quality standards, as outlined in the Regional Board's Water Quality Control Plan for the San Diego Basin (Basin Plan). Storm water and non-storm water discharges from the MS4 are subject to the conditions and requirements established in the San Diego Basin Plan for point source discharges. These water quality standards must be complied with at all times, irrespective of the source and manner of discharge.

Discussion of Finding C.2. This finding is a clarification regarding the potential for discharges of storm water and non-storm water to impact the Beneficial Uses as described in the Basin Plan. As such these point source discharges require Waste Discharge Requirements (WDRs) to ensure that water quality standards are met. Furthermore, since point source discharges require WDRs, the discharges are subject to the prohibitions, conditions and requirements of the Basin Plan.

In addition, municipal discharges have been split into storm water and non-storm water discharges to represent the differing regulations applicable to storm water and non-storm water, though both types of discharges are likely to contain pollutants.

Finding C.3. The most common categories of pollutants in runoff include total suspended solids, sediment (due to anthropogenic activities); pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste); detergents; and trash.

Discussion of Finding C.3. The National Urban Runoff Program (NURP) study showed that heavy metals, organics, coliform bacteria, nutrients, oxygen demanding substances (e.g., decaying vegetation), and total suspended solids are found at relatively high levels in storm water and non-storm water discharges.[29] It also found that MS4 discharges draining residential, commercial, and light industrial areas contain significant loadings of total suspended solids and other pollutants. The Basin Plan goes on to identify runoff pollutants to include lawn and garden chemicals, household and automotive care products dumped or drained on streets, and sediment that erodes from construction sites.[30] In addition, the State Board Urban Runoff Technical Advisory Committee (TAC) finds that urban runoff pollutants include sediments, nutrients, oxygen-demanding substances, heavy metals, petroleum hydrocarbons, pathogenic bacteria, viruses, and pesticides.[31] Runoff that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through storm drain networks directly to the receiving waters of the San Diego Region.

Finding C.4. The discharge of pollutants and/or increased flows from MS4s may cause or threaten to cause the concentration of pollutants to exceed applicable receiving water quality objectives and impair or threaten to impair designated beneficial uses resulting in a condition of pollution (i.e., unreasonable impairment of water quality for designated beneficial uses), contamination, or nuisance.

Discussion of Finding C.4. The 1992, 1994, and 1996 National Water Quality Inventory Reports to Congress prepared by USEPA showed a trend of impairment in the nation's waters from contaminated storm and non-storm water runoff.[32] The 1998 National Water Quality Inventory Report showed that runoff discharges affect 11 percent of rivers, 12 percent of lakes, and 28 percent of estuaries. The report states that ocean shoreline impairment due to runoff increased from 55 percent in 1996 to 63 percent in 1998. The report notes that runoff discharges are the leading source of pollution and the main factor in the degradation of surface water quality in California's coastal waters, rivers, and streams. Furthermore, the NURP study found that pollutant levels from illicit non-storm water discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health.[33]

[29] Ibid.
[30] Regional Board, 1994. Water Quality Control Plan, San Diego Basin, Region 9. San Diego.
[31] State Board, 1994. Urban Runoff Technical Advisory Committee Report and Recommendations. Nonpoint Source Management Program.
[32] USEPA, 2000. Quality of Our Nation's Waters: Summary of the National Water Quality Inventory 1998 Report to Congress – USEPA 841-S-00-001; Water Quality Conditions in the United States: Profile from the 1998 National Water Quality Inventory Report to Congress – USEPA 841-F-00-006.
[33] USEPA, 1993. Results of the Nationwide Urban Runoff Program, Volume 1 – Final Report.

In addition, the Region's CWA section 303(d) list, which identifies water bodies with impaired beneficial uses within the region, also indicates that the impacts of storm water and non-storm water runoff on receiving waters are significant. Many of the impaired water bodies on the 303(d) list are impaired by constituents that have been found at high levels within storm water and non-storm water runoff by the County of Orange storm water monitoring program.[34] Examples of constituents frequently responsible for beneficial use impairment include indicator fecal bacteria, heavy metals, and sediment; these constituents have been found at high levels in runoff both regionally and nationwide.[35,36] In addition, impairments may be caused by synergistic effects of multiple contaminants or by pollutants not currently monitored by storm water programs[37].

Finding C.5. Pollutants in runoff can threaten and adversely affect human health. Human illnesses have been clearly linked to recreating near storm drains flowing to coastal waters. Also, runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may be eventually consumed by humans.

[34] County of Orange, 2006. Orange County Municipal Copermittees 2005-2006 Annual Storm Water Program Report, Section 11.
[35] Ibid.
[36] USEPA, 1983. Results of the Nationwide Urban Runoff Program, Volume 1 – Final Report.
[37] County of Orange, 2006. Orange County Municipal Copermittees 2005-2006 Annual Storm Water Program Report, Section 11.

Administrative Record Page No. 025322

Discussion of Finding C.5. A landmark study, conducted by the Santa Monica Bay Restoration Project, found that there was an increased occurrence of illness in people that swam in proximity to a flowing storm drain.[38] A study of south Huntington Beach and north Newport Beach (both located in northern Orange County) found that an illness rate of about 0.8 percent among bathers at those beaches resulted in about $3 million annually in health-related expenses.[39] Furthermore, runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may eventually be consumed by humans. Pollutants such as heavy metals and pesticides, which are commonly found in MS4 runoff, have been found to bioaccumulate and biomagnify in long-lived organisms at the higher trophic levels.[40] Since many aquatic species are utilized for human consumption, toxic substances accumulated in species' tissues can pose a significant threat to public health. USEPA supports this finding when it states, "As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen and phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such and lakes, ponds, and streams. Once deposited, these pollutants can enter the food chain through small aquatic life, eventually entering the tissues of fish and humans."[41]

Finding C.6. Runoff discharges from MS4s often contain pollutants that cause toxicity to aquatic organisms (i.e., adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). Toxic pollutants impact the overall quality of aquatic systems and beneficial uses of receiving waters.

[38] Haile, R.W., et al., 1996. An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Santa Monica Bay Restoration Project.
[39] Dwight, R.H., et al., 2005. Estimating the Economic Burden From Illnesses Associated With Recreational Coastal Water Pollution – A Case Study in Orange County, California. Journal of Enviro. Management Vol.76. No.2 p.95-103. Also reported in: Los Angeles Times, May 2, 2005. Here's What Ocean Germs Cost You: A UC Irvine Study Tallies the Cost of Treatment and Lost Wages for Beachgoers Who Get Sick.
[40] Abel, P.D, 1996. Water Pollution Biology.
[41] USEPA, 2000. Storm Water Phase II Compliance Assistance Guide. Washington D.C. EPA 833-R-00-002.

Discussion of Finding C.6. The Copermittees' monitoring data exhibits frequent toxic conditions in runoff during storm events and dry weather. Toxicity is observed in both fresh and marine receiving waters, but varies significantly within and among sites and over time. However, according to the County of Orange, toxicity in both dry and wet weather appears concentrated along the coast. This supports the conclusion that toxicity is associated with anthropogenic activities and is caused by pollutants that flow downstream and become concentrated near the bottom of developed watersheds. Physical channel modification and hydromodification are also greatest near the coast and likely contribute to findings of toxicity. The cause of toxicity may vary between locations, dates, and indicator organisms. The actual cause may be influenced by various factors such as development, runoff management, habitat modification, hydromodification, and native aquatic environment. Toxicity identification evaluations (TIEs) have failed to confirm initial findings of toxicity. Follow-up studies by the County of Orange implicate both pollutants and physical stream habitat degradation (e.g. channel modification and hydromodification) as factors related to toxicity findings.[42]

Finding C.7. The Copermittees discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within one of the eleven hydrologic units (San Juan Hydrologic Unit) comprising the San Diego Region as shown in Tables 2a and 2b. Some of the receiving water bodies have been designated as impaired by the Regional Board and the United States Environmental Protection Agency (USEPA) in 2006 pursuant to CWA section 303(d). Also shown in the Tables are the watershed management areas (WMAs) as defined in the Regional Board report, Watershed Management Approach, January 2002.

Discussion of Finding C.7. This finding identifies the Copermittees responsible for MS4 discharges in each watershed management area. The list is identical to Order No. R9-2002-0001. The CWA Section 303(d) List of Impaired Waters, 2006 Update has been approved by the Regional Board, State Board, and USEPA.[43] This 303(d) list identifies waters that do not meet water quality standards after applying certain required technology-based effluent limits ("impaired" water bodies). As part of this listing process, states are required to prioritize waters/watersheds for future development of Total Maximum Daily Loads (TMDLs). The listed 303(d) pollutant(s) of concern do not necessarily reflect impairment of the entire corresponding WMA or all corresponding major surface water bodies. The specific impaired portions of each WMA are listed in the State Board's 2006 Section 303(d) List of Water Quality Limited Segments.

[42] County of Orange, 2006. Orange County Municipal Copermittees 2005-2006 Annual Storm Water Program Report, Section 11.
[43] The approved 2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments is on-line at: http://www.waterboards.ca.gov/tmdl/303d_lists2006.html

Finding C.8. Trash is a persistent pollutant which can enter receiving waters from the MS4 resulting in accumulation and transport in receiving waters over time. Trash poses a serious threat to the Beneficial Uses of the receiving waters, including, but not limited to, human health, rare and endangered species, navigation and human recreation.

Discussion of Finding C.8. The Copermittees to date have documented high volumes of trash coming from the MS4 system and in receiving waters.[44]

The Basin Plan specifies the following narrative Water Quality Objective (WQO) for Floating Material:

> *"Waters shall not contain floating material, including solids, liquids, foams, and scum in concentrations which cause nuisance or adversely affect beneficial uses.*"

The Basin Plan specifies the following narrative WQO for Suspended and Settleable Solids: Material:

> *"Waters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses.*"

Additionally, high density urban areas in Southern California have been shown to be responsible for up to 60 percent of the trash that enters receiving waters from the MS4.[45] The retrofitting of existing MS4 systems, such as catch basins, in targeted high trash areas can result in significant reductions in the amount of trash entering receiving waters from the MS4.

Trash, as litter in both solid and liquid form, is consistently found on and adjacent to roadways. A California Department of Transportation Litter Management Pilot Study found that of roadway trash, plastics and Styrofoam accounted for 33 percent of trash by weight, and 43 percent by volume. Further, the study found that approximately 80 percent of the litter associated with roadways was floatable, indicating that, without capture, this litter would enter Waters of the State after a storm event, resulting in the impairment of Beneficial Uses.[46] The study, however, relied upon a mesh capture size of 0.25 inches (6.35 millimeters). This size is too large to effectively capture plastic pre-production pellets (aka "nurdles"), which are roughly 3 mm in size, and likely underestimated the total contribution of plastics. Plastics, including pre-production pellets, have been found to be the dominant pollutant on beaches in the County of Orange.[47] Furthermore, pre-production plastic pellets, which are small enough to be easily digested, have been found to carry persistent organic pollutants, including PCBs

[44] Aliso Creek Watershed 27th, 28th, 29th and 30th Quarterly Progress Reports. 2007-2008.
[45] The City of Los Angeles Meets Trash TMDLs Compliance with CB Inserts and Opening Covers. August 06, 2008.
[46] California Department of Transportation District 7 Litter Management Pilot Study. June 26, 2000.
[47] Moore, S.L., Gregorio, D., Carreon, M., Weisberg, S.B. and M. K. Leecaster. 1998. Composition and Distribution of Beach Debris in Orange County, California. *Marine Pollution Bulletin*. Vol. 42

and DDT.[48]

Finding C.9. The Copermittees' water quality monitoring data submitted to date documents persistent violations of Basin Plan water quality objectives for various runoff-related pollutants (fecal coliform bacteria, total suspended solids, turbidity, metals, etc.) at various watershed monitoring stations. Persistent toxicity has also been observed at some watershed monitoring stations. In addition, bioassessment data indicates that the majority of urbanized receiving waters have Poor to Very Poor Index of Biotic Integrity ratings. In sum, the above findings indicate that runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in Orange County.

Discussion of Finding C.9. The Copermittees have produced data that demonstrates water quality objectives are frequently not met during dry and wet weather. The 2006 Report of Waste Discharge and the 2005-06 Annual Reports document that receiving water monitoring stations often fail to meet water quality objectives established in the Basin Plan. Similar conclusions are found in monitoring reported to the Regional Board pursuant to Investigative Orders issued between 2001 and 2006 for Aliso Creek, Salt Creek[49], Prima Deshecha[50], and North Creek at Doheny Beach[51]. Monitoring reported to the State Board pursuant to funding grant agreements also demonstrates that discharges from MS4s routinely exceed water quality objectives.[52,53, 54, 55, 56].

[48] Rios, L.M., Moore, C. and Patrick R. Jones. 2007. Persistent organic pollutants carried by synthetic polymers in the ocean environment. *Marine Pollution Bulletin.* Vol. 54.
[49] An Investigative Order was issued on March 6, 2003 to the City of Dana Point for water quality conditions of Salt Creek near Monarch Beach.
[50] An Investigative Order was issued on July 3, 2002 to the City of San Clemente and the County of Orange for water quality conditions of Prima Deshecha Canada (including Poche Beach).
[51] Investigative Order No. R9-2006-0039 was issued on April 4, 2006 to the City of Dana Point and Quantum Ozone, Inc. for an assessment of water quality conditions at North Creek, Doheny Beach.
[52] City of Dana Point. 2005. *Final Report for the Del Obispo Storm Drain Project*. Prepared for the State Water Resources Control Board Agreement No. 02-216-550-0.
[53] City of Dana Point. 2004. *Final Report For The Alipaz Storm Drain Treatment And Low Flow Diversion Project" by the City of Dana Point.* Prepared for State Water Resources Control Board Agreement Number: 01-068-550-0.
[54] James Volz. 2005. *Final Report for Poche Beach Urban Runoff Ultraviolet Light Bacteria Disinfection Project*. Prepared by the County of Orange for State Water Resources Control Board Agreement No. 01-236-550-1.
[55] Max Anderson. 2005. Final Report: Aliso Beach Clean Beach Initiatives, J01P28 Interim Water Quality Improvement Package Plant Best Management Practices. Prepared by the County of Orange for State Water Resources Control Board Agreement No. 01-227-550-0.
[56] City of Laguna Niguel and CH2MHILL. 2004. *Final Report: Wetland Capture and Treatment (WetCAT) Network.* Prepared for State Water Resources Control Board Agreement No. 01-122-259-0.

Water quality in receiving waters downstream of MS4 discharges fail to meet Ocean Plan standards[57], California Toxics Rule standards[58], and Basin Plan objectives. Data submitted in the MS4 Annual Reports indicate that at various times chemical, bacteria, pesticide, and metal concentrations may exceed water quality objectives in marine and fresh water receiving waters in both wet and dry weather conditions. Although wet weather MS4 effluent data is not generally reported, dry-weather non-storm water MS4 effluent data demonstrates that the effluent contains concentrations of pollutants that would exceed receiving water quality objectives.

In most of these watersheds, there are no other significant NPDES permits discharging to the creeks. For instance, there are no live-stream discharges of treated waste water in south Orange County. The few NPDES permits in the watersheds are mainly for recycled water which only discharges occasionally during the rainy season. Because the water quality monitoring indicates exceedances of water quality standards and MS4 discharges are the main source of pollutants in the watersheds, it can be inferred that the MS4 discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in Orange County.

Finding C.10. When natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots, the natural absorption and infiltration abilities of the land are lost. Therefore, runoff leaving a developed area is significantly greater in runoff volume, velocity, and peak flow rate than pre-development runoff from the same area. Runoff durations can also increase as a result of flood control and other efforts to control peak flow rates. Increased volume, velocity, rate, and duration of runoff greatly accelerate the erosion of downstream natural channels. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as a 3-5 percent conversion from natural to impervious surfaces. The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

Finding C.11. Development creates new pollution sources as human population density increases and brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. As a result, the runoff leaving the developed area is significantly greater in pollutant load than the pre-development runoff from the same area. These increased pollutant loads must be controlled to protect downstream receiving water quality.

[57] The Basin Plan incorporates terms and conditions of the State Board's *Water Quality Control Plan for Ocean Waters of California* (Ocean Plan) as a water quality objective for Ocean Waters in the San Diego Region.
[58] The California Toxics Rule criteria promulgated by the USEPA are directly applicable water quality standards for certain priority toxic pollutants in inland surface waters and enclosed bays and estuaries in California.

Discussion of Findings C.10 and C.11.
The Natural Resources Defense Council (NRDC) 1999 Report, "*Stormwater Strategies, Community Responses to Runoff Pollution*" identifies two main causes of the storm water pollution problem in developed areas. Both causes are directly related to development:

1. Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.

2. The concentration of pollutants in the runoff. Certain industrial, commercial, residential and construction activities are large contributors of pollutant concentrations in storm water runoff. As human population density increases, it brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc.

As a result of these two causes, runoff leaving developed areas is significantly greater in volume, velocity, and pollutant load than pre-development runoff from the same area.

By accommodating the traditional approach to storm water management, development has also altered the flow regime (rate, magnitude, frequency, timing, and flashiness of runoff) that supports aquatic and riparian habitats. These hydrologic changes are driven by the loss of water storage capacity in the watersheds,[59] and exacerbated by physical alterations of the stream channel network.[60] This relationship between development and stream channel integrity has been documented nationally and in southern California.

[59] Konrad, Christopher P. and Derek K. Booth, 2005. *Hydrologic Changes in Urban Streams and Their Ecological Significance.* American Fisheries Society Symposium Vol.47 pp.157-177.
[60] Poff. N.L. et al. 1997. The Natural Flow Regime: A paradigm for river conservation and restoration. Bioscience Vol. 47, No. 11, pp.769-784.

Hydrologic changes from development also directly and indirectly adversely affect wetlands. Natural wetlands support many beneficial uses and provide important water-quality related ecological services, including pollutant removal, flood attenuation, and groundwater recharge.[61] The Center for Watershed Protection recently provided USEPA with a synthesis of more than 100 scientific studies on the direct and indirect impacts of development, particularly urbanization, on wetlands and the role wetlands play in watershed quality. The report found that the three changes from land development with the most potential to impact wetlands include: Increased storm water runoff; decreased groundwater recharge; and flow constriction.[62] Each of these changes can often be avoided or minimized by implementing LID and hydromodification BMPs.

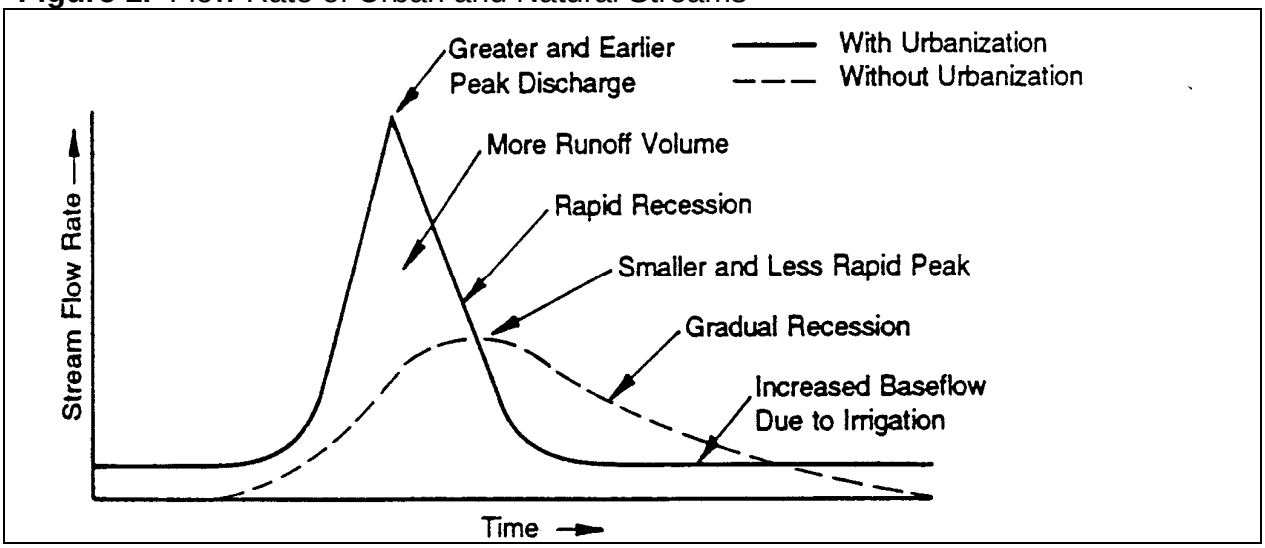
When Order No. R9-2002-01 was adopted, studies had shown that the level of imperviousness in an area strongly correlates with the quality of nearby receiving waters.[63] One comprehensive study, which looked at numerous areas, variables, and methods, revealed that stream degradation occurs at levels of imperviousness as low as 10 – 20 percent.[64] Stream degradation is a decline in the biological integrity and physical habitat conditions that are necessary to support natural biological diversity. For instance, few urban streams can support diverse benthic communities with imperviousness greater than or equal to 25 percent.[65] To provide some perspective, a medium density, single-family home area can be from 25 percent to 60 percent impervious (variation due to street and parking design).[66]

More recently, a report on the effects of impervious in southern California streams found that local ephemeral and intermittent streams are more sensitive to such effects than streams in other parts of the country. This study, by the Southern California Coastal Water Research Program, estimated a threshold of response at a two to three percent change in percent of impervious cover in a watershed. [67] This threshold is lower than the previously reported estimates by the USEPA that were cited in the Fact Sheet for Order No. R9-2002-01.

[61] Wright, Tiffany, et al. 2006. "Direct and Indirect Impacts of Urbanization on Wetland Quality." Prepared by the Center for Watershed Protection. Available at: http://www.cwp.org. 81p.
[62] Ibid p.26
[63] USEPA, 1999. Part II. 40 CFR Parts 9, 122, 123, and 124. National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule. Federal Register.
[64] Ibid.
[65] Ibid.
[66] Schueler, T.R., 1994. The Importance of Imperviousness. Watershed Protection Techniques. As cited in 64 Fed. Reg. 68725.
[67] Coleman, Derrick, et al. 2005. *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams.* Technical Report No. 450 of the Southern California Coastal Water Research Project.

To demonstrate the principle of increased volume and velocity of runoff from urbanization, Figure 1 shows the flow rate of an urban vs. a natural stream. What the figure demonstrates is that urban stream flows have greater peaks and volumes, as well as shorter retention times than natural stream flows. The greater peak flows and volumes result in stream degradation through increased erosion of stream banks and damage to aquatic habitat. The shorter retention times result in less time for sediments and other pollutants to settle before being carried out to the ocean. This sediment, and the associated pollutants it carries, can be a significant cause of water quality degradation.

Figure 1. Flow Rate of Urban and Natural Streams[68]



Increased volume and velocity of runoff adversely impacts receiving waters and their beneficial uses in many ways. According to the Urban Runoff TAC report,[69] increases in population density and imperviousness result in changes to stream hydrology including:

1. Increased peak discharges compared to pre-development levels;
2. Increased volume of storm water runoff with each storm compared to pre-development levels;
3. Decreased travel time to reach receiving water; increased frequency and severity of floods;
4. Reduced stream flow during prolonged periods of dry weather due to reduced levels of infiltration;
5. Increased runoff velocity during storms due to a combination of effects of higher discharge peaks, rapid time of concentration, and smoother hydraulic surfaces from channelization; and

[68] Adapted from Schueler, T.R., 1987. Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs. Metropolitan Washington Council of Governments.
[69] State Board, 1994. Urban Runoff Technical Advisory Committee Report and Recommendations. Nonpoint Source Management Program.

6. Decreased infiltration and diminished ground water recharge.

Even though the rainfall depths in arid watersheds are lower, watershed development can greatly increase peak discharge rates during rare flood events.[70] A study conducted in arid watersheds around Riverside, CA showed that, over two decades, impervious cover increased from 9 percent to 22 percent, which resulted in an increase of more than 100 percent in the peak flow rate for the two-year storm event. The study also showed that the average annual storm water runoff volume had increased by 115 percent to 130 percent over the same time span.[71]

Prior hydromodification studies in California have shown that the increase in impervious cover, and thus change in runoff volume, velocity, rate, and duration, results in a shift in the range of storms that produce geomorphically significant flows within receiving waters (see above discussion). Additionally, studies in California have determined that ninety percent of the geomorphic "work" done within channels receiving flows from developed areas now occurs from flows below the 10 year peak flow event.[72]

This increased volume, velocity, rate, and duration of runoff greatly accelerates the erosion of the beds and banks within downstream receiving waters. Additionally, storm water flows which runoff directly from impervious surfaces into the MS4 and thus receiving waters prevent the associated runoff of natural sediments which would occur in pre-project conditions. This combined alteration of the physical condition of storm water runoff results in accelerated downstream erosion of receiving water bed and banks. The excessive erosion of stream beds and banks releases pollutants found in soils into receiving waters, degrades macroinvertebrate habitat (see D.2.c), eliminates spawning habitat, reduces associated wetland and riparian habitat, and threatens existing infrastructure adjacent to receiving waters. Bank sloughing within creeks and streams increases the pollutant loading to those receiving waters, particularly for turbidity and phosphorous.[73] In arid environments, accelerated channel erosion has been shown to have synergistic impacts within watersheds. Increased channel erosion within Las Vegas wash has resulted in the loss of over 1,000 acres of wetland and riparian habitat, released additional pollutants into downstream receiving waters, and eliminated in-stream habitat and water quality conditions required for existing threatened and endangered species.[74]

[70] Schueler and Holland, 2000. Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66). The Practice of Watershed Protection. P. 695-706.
[71] Ibid.
[72] Santa Clara Valley Hydromodification Management Plan. April 21, 2005.
[73] Sekely, A.C., Mulla, D.J. and D.W. Bauer. 2002. Streambank slumping and its contribution to the phosphorus and suspended sediment loads of the Blue Earth River, Minnesota. *Journal of Soil and Water Conservation.* September 2002 vol. 57 no. 5 243-250.
[74] Tuttle, P.L.. and E..L.. Orsak. 2002. Las Vegas Wash Water Quality and Implications to Fish and Wildlife. U.S.

Regarding the impact of development on storm water runoff pollutant loads, the Regional Board's Basin Plan states:

> *Nonpoint source pollution is primarily the result of man's uses of land such as urbanization, roads and highways, vehicles, agriculture, construction, industry, mineral extraction, physical habitat alteration (dredging/filling), hydromodification (diversion, impoundment, channelization), silviculture (logging), and other activities which disturb land.*[75] *As a result, when rain falls on and drains through urban freeways, industries, construction sites, and neighborhoods it picks up a multitude of pollutants. The pollutants can be dissolved in the runoff and quickly transported by gravity flow through a vast network of concrete channels and underground pipes referred to as storm water conveyance systems. Such systems ultimately discharge the polluted runoff, without treatment, into the nation's creeks, rivers, estuaries, bays, and oceans.*[76]

According to the Center for Watershed Protection, urbanization strongly shapes the quality of both surface and ground water in arid and semi-arid regions of the southwest. Since rain events are so rare, pollutants have more time to build up on impervious surfaces compared to humid regions. Therefore, the pollutant concentrations of storm water runoff from arid watersheds tends to be higher than that of humid watersheds.[77] The effect of antecedent rainfall events is demonstrated in a recent report from the California Department of Transportation (Caltrans) that found the concept of a seasonal first flush is applicable to the southern California climate.[78]

Finding C.12. Development and urbanization especially threaten environmentally sensitive areas (ESAs), such as water bodies designated as supporting a RARE beneficial use (supporting rare, threatened or endangered species) and CWA 303(d)-impaired water bodies. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in other areas. In essence, development that is ordinarily insignificant in its impact on the environment may become significant in a particularly sensitive environment. Therefore, additional control to reduce storm water pollutants from new and existing development may be necessary for areas adjacent to or discharging directly to an ESA.

Fish and Wildlife Service.

[75] Regional Board, 1994. Water Quality Control Plan for the San Diego Basin. P. 4-66.

[76] Ibid. P. 4-69 - 4-70.

[77] Schueler and Holland, 2000. Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66). The Practice of Watershed Protection. P. 695-706.

[78] Stenstrom, Michael and Masoud Kayhanian, 2005. *First Flush Phenomenon Characterization.* Prepared for Caltrans. Report No. CTSW-RT-05-73-02.6 Study jointly performed by UCLA and UCD. Most of the data presented was collected from three highly urbanized highway sites in west Los Angeles. Much effort went into developing a quantitative way of defining the mass first flush. Other aspects include: variability of water quality during storm events, litter characteristics, correlation among constituents, first flush of organics and particle size distribution, new methods for measuring oil and grease, and grab and composite sampling strategies. The report is available on-line at: http://www.dot.ca.gov/hq/env/stormwater/special/newsetup/

Discussion of Finding C.12. ESAs are defined in the Order as "Areas that include but are not limited to all CWA Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the Basin Plan ; water bodies designated with the RARE beneficial use by the Basin Plan; areas designated as preserves or their equivalent under the Natural Communities Conservation Program within the Cities and County of Orange; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees."

Areas that meet this definition are inherently sensitive habitats containing unique, rare, threatened, or endangered species, or are not achieving their designated beneficial uses. As discussed above, runoff is known to contain a wide range of pollutants and has demonstrated toxicity to plants and animals. Therefore, it is necessary to apply additional storm water controls for developments within, adjacent to, or directly discharging to ESAs. This need for additional storm water controls is addressed within each component of the Order. USEPA supports the requirement for additional storm water controls, stating "For construction sites that discharge to receiving waters that do not support their designated use or other waters of special concern, additional construction site controls are probably warranted and should be strongly considered."[79] Further support for requiring additional controls to reduce pollutants in storm water discharges to ESAs can be found in *Mitigation of Storm Water Impacts From New Developments in Environmentally Sensitive Areas*, a technical report written by the LARWQCB.[80]

ESAs within the area subject to this Order are expected to be substantially similar to the previous Order. Additions may be necessary once the South County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) is formally adopted. Other modifications may reflect updated descriptions or findings of threatened or endangered aquatic species.

Finding C.13. Although dependent on several factors, the risks typically associated with properly managed infiltration of runoff (especially from residential land use areas) are not significant. The risks associated with infiltration can be managed by many techniques, including (1) designing landscape drainage features that promote infiltration of runoff, but do not "inject" runoff (injection bypasses the natural processes of filtering and transformation that occur in the soil); (2) taking reasonable steps to prevent the illegal disposal of wastes; (3) protecting footings and foundations; (4) ensuring that each drainage feature is adequately maintained in perpetuity; and (5) pretreatment.

[79] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. Washington D.C. EPA/833-B-92-002.
[80] LARWQCB, 2001. Mitigation of Storm Water Impacts From New Developments In Environmentally Sensitive Areas.

Discussion of Finding C.13. Infiltration is an effective means for managing runoff. However, measures must be taken to protect groundwater quality when infiltration of runoff is implemented. USEPA supports runoff infiltration and provides guidance for protection of groundwater: "With a reasonable degree of site-specific design considerations to compensate for soil characteristics, infiltration may be very effective in controlling both urban runoff quality and quantity problems. This strategy encourages infiltration of urban runoff to replace the natural infiltration capacity lost through urbanization and to use the natural filtering and sorption capacity of soils to remove pollutants; however, the potential for some types of urban runoff to contaminate groundwater through infiltration requires some restrictions."[81] The restrictions placed on runoff infiltration in this Order are based on recommendations provided by the USEPA Risk Reduction Engineering Laboratory. The State Board found in Order WQ 2000-11 on the appeal of the LARWQCB's Standard Urban Storm Water Mitigation Plan (SUSMP) requirements that the guidance provided in the above referenced document by the USEPA Risk Reduction Engineering Laboratory is sufficient for the protection of groundwater quality from runoff infiltration. To further protect groundwater quality, the Order also includes guidance from the LARWQCB,[82] the State of Washington,[83] and the State of Maryland.[84] Subsequently, the California Storm Water Quality Association (CASQA) has produced technical guidance for post-construction treatment BMPs to protect ground water quality[85].

Finding C.14. Non-storm water (dry weather) discharge from the MS4 is not considered a storm water (wet weather) discharge and therefore is not subject to regulation under the Maximum Extent Practicable (MEP) standard from CWA 402(p)(3)(B)(iii), which is explicitly for "Municipal … *Stormwater Discharges* (emphasis added)" from the MS4. Non-storm water discharges, per CWA 402(p)(3)(B)(ii), are to be effectively prohibited. Such dry weather non-storm water discharges have been shown to contribute significant levels of pollutants and flow in arid, developed Southern California watersheds and are not to be effectively prohibited under the Clean Water Act.

Discussion of Finding C.14.

Permitting Framework

The Clean Water Act (CWA) employs the strategy of prohibiting the discharge of any pollutant from a point source into waters of the United States unless the discharger of the pollutant(s) obtains a NPDES permit pursuant to Section 402 of the Clean Water

[81] USEPA, 1994. Potential Groundwater Contamination from Intentional and Nonintentional Stormwater Infiltration. EPA 600 SR-94 051.
[82] LARWQCB, 2000. Standard Urban Storm Water Mitigation Plan for Los Angeles County and Cities in Los Angeles County.
[83] Washington State Department of Ecology, 1999. Draft Stormwater Management in Washington State. Volume V – Runoff Treatment BMPs. Pub. No. 99-15.
[84] Maryland Department of the Environment, 1999. 2000 Maryland Stormwater Design Manual. Volume I.
[85] CASQA. The New Development and Redevelopment Handbook, 2003. Available on-line at http://www.cabmphandbooks.org/Development.asp

Act. The discharge of storm water and/or non-storm water from an MS4 system is considered a discharge from a point source. As discussed below, however, the Clean Water Act regulates storm water and non-storm water discharges under different standards.

In 1987 the CWA was amended to include provisions that specifically concerned NPDES permitting requirements for storm water discharges from MS4 systems. Section 402(p) of the CWA regulates the discharge of storm water from a point source, the municipal separate storm sewers. Such discharges of storm water are subject to the maximum extent practicable (MEP) storm water standard and the related iterative process. The MEP standard for storm water discharges reflects Congress' recognition that the variability of flow and intensity of storm events render difficult strict compliance with water quality standards by MS4s. However, this standard was not considered applicable to non-storm water discharges, which under 402(p) are required to be effectively prohibited from entering the MS4. Clearly, if non-storm water discharges must be effectively prohibited from entering the MS4, the very next requirement (402(p)(3)(B)(iii)) requiring discharges from the MS4 be reduced to the MEP intends that the discharge of pollutants be limited to storm water. Unless exempt or authorized under a separate NPDES permit, non-storm water discharges are not authorized to enter the MS4 in the first instance and are considered to be illicit discharges.

The Federal Register further clarifies that such discharges through an MS4 are not authorized under the CWA (55 Fed. Reg. 47995):

> "Today's rule defines the term "illicit discharge" to describe any discharge through a municipal separate storm sewer system that is not composed entirely of storm water and that is not covered by an NPDES permit. Such illicit discharges are not authorized under the Clean Water Act. Section 402(p(3)(B) requires that permits for discharges from municipal separate storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal separate storm sewer…Ultimately, such non-storm water discharges through a municipal separate storm sewer must either be removed from the system or become subject to an NPDES permit."

The federal regulations (40 Code of Federal Regulations (CFR) 122.26(d)(vi)(2)(B)) require that the municipal separate storm sewer discharger prohibit "through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer." As owners and operators of the MS4, Copermittees cannot passively receive discharges from third parties (Federal Register 68766) and thus are responsible for the discharge of any non-storm water from their MS4.

The State Water Board's recent precedential order (Order WQ-2009-0008) affirming a Los Angeles County MS4 permit modification, consistent with USEPA's prior interpretations, recognizes that "[n]either the Clean Water Act nor the federal storm water regulations define 'non-storm water.' 'Illicit discharge' is defined as any discharge to an MS4 'not composed entirely of storm water.'[fn]. Thus, 'illicit

discharge' is the most nearly applicable definition of 'non-storm water' found in federal law and is often used interchangeably with that term."[86]

Storm Water and Non-storm Water Definitions

By definition non-storm water is not precipitation related. 40 CFR 122.26(b)(13) states that: "Storm water means storm water runoff, snowmelt runoff, and surface runoff and drainage." While "surface runoff and drainage" is not defined in federal law, it is related to precipitation events such as rain and/or snowmelt (see 55 Fed Reg 47995-96). The Federal Register (55, page 47995) includes an entire section on the definition of storm water and non-storm water. The term "surface runoff and drainage" does not include all incidental flows in the MS4 system, but consists of flows relating to precipitation events as clarified by the Federal Register, USEPA's documents and permitting, and other Regional Board Orders.

The Federal Register (55 Fed Reg 47995-47996) provides clarification on the distinction between storm water and non-storm water discharges, including their regulation:

> "In response to the comments which requested EPA to define the term storm water broadly to include a number of classes of discharges **which are not in any way related to precipitation events, EPA believes that this rulemaking is not an appropriate forum for addressing the appropriate regulation of such non-storm water discharges**, even though some classes of non-storm water discharges may typically contain only minimal amounts of pollutants. Congress did not intend that the term storm water be used to describe any discharge that has a de minimis amount of pollutants, not did it intend for section 402(p) to be used to provide a moratorium from permitting other non-storm water discharges."

As recently recognized by the State Water Board in a precedential decision upholding an MS4 permit modification adopted by the Los Angeles Regional Water Board, "U.S. EPA has previously rejected the notion that 'storm water,' as defined at 40 Code of Federal Regulations section 122.26(b)(13), includes dry weather flows. In U.S. EPA's preamble to the storm water regulations, U.S. EPA rejected an attempt to define storm water to include categories of discharges 'not in any way related to precipitation events.'[fn]."[87] Thus, USEPA has made it clear that it deems discharges unrelated to precipitation events to be non-storm water discharges. 40 CFR 122.26(d)(iv)(B) itself provides specific examples of non-storm water discharges:

> "…the following category of non-storm water discharges or flows shall only be addressed where such discharges are identified by the municipality as sources of pollutants to the United States: water line flushing, landscape irrigation,

[86] State Water Board Order WQ-2009-0008 (*In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, adopted August 4, 2009), p. 4.
[87] State Water Board Order WQ-2009-0008 (*In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, adopted August 4, 2009), p. 7.

> diverted stream flows, rising ground waters, uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20) to separate storm sewers, uncontaminated pumped groundwater,…"

USEPA also removed street wash waters from the definition of storm water, as USEPA specifically identified this discharge as being non-storm water (55 Fed. Reg. page 47996). Additionally, section 1.2.2.2. of USEPA's Multi-Sector General Permit for Industrial Activities (MSGP-2000) considers fire hydrant flushings, irrigation drainage, landscape watering, and foundation or footing drains to be non-storm water discharges. USEPA's September 1999 Storm Water Management Fact Sheet for Non-Storm Water Discharges to Storm Sewers states that non-storm water discharges can include discharges of process water, air conditioning condensate, non-contact cooling water, vehicle wash water, or sanitary wastes.

While these types of non-storm water discharges (or illicit discharges) may be regulated under storm water permits because as a practical matter they can enter and be discharged from the MS4 systems, they are not regulated as storm water discharges under the Clean Water Act because they are unrelated to precipitation events. As indicated above, the State Water Resources Control Board recent discussion of this issue supports the conclusion that non-storm water discharges are unrelated to precipitation events. In its Order affirming amendments to the Los Angeles County MS4 permit to implement a TMDL to control bacteria in dry weather flows, the State Water Board rejected petitioners County of Los Angeles and the Los Angeles County Flood Control District implied assertion that the definition of "storm water" contained in the federal regulations (defined as "surface run-off and drainage") includes the run-off and drainage from non-storm events. The State Water Board notes that the challenged permit provisions do not apply to storm water flows in that they apply only during dry weather conditions as defined in the permit. In upholding the challenged order, the State Water Board notes that the Los Angeles Water Board's permit language followed USEPA's approach, referring to USEPA's rejection of attempts to define storm water to include categories of discharges "not in any way related to precipitation events."[88]

Lastly, the Regional Board and State Board have issued multiple permits for non-storm water discharges, including, but not limited to, R9-2008-0002 (extracted groundwater), R9-2002-0020 (hydrostatic discharge) and 2006-008 DWQ (utility vaults), pursuant to section 402 of the CWA.

Permitting Non-storm Water Discharges

The U.S. EPA's approach (and the Regional Board's under its approved program) for non-storm water discharges from MS4s is to regulate these discharges under the existing 402 NPDES framework (Fed Reg 47995 and 48037 see below) for discharges

[88] State Water Board Order WQ-2009-0008 (*In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, adopted August 4, 2009), p. 7 (quoting 55 Fed. Reg. 47990. 47995).

to surface waters. The NPDES program (40 CFR 122.44(d)) utilizes discharge prohibitions and effluent limitations as regulatory mechanisms to regulate non-storm water discharges, including the use of technology and water quality-based effluent limitations. Non-numerical effluent limitations, such as BMPs for non-storm water discharges may only be authorized where numerical effluent limits are infeasible or where the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA (40 CFR 122.44(k) see below).

The Federal Register (55, page 48037) provides clarification that non-storm water discharges from the MS4 are to be regulated under section 402, not 402(p):

> "Conveyances which continue to accept other "non-storm water" discharges (e.g. discharges without an NPDES permit) with the exceptions noted above (*exempted discharges that are not a source of pollutants*) do not meet the definition of municipal separate storm sewer and are not subject to 402(p)(3)(B) of the CWA unless such discharges are issued separate NPDES permits. Instead, conveyances which continue to accept non-storm water discharges which have not been issued separate NPDES permits are subject to sections 301 and 402 of the CWA."

This regulatory approach is consistent with the approach recently upheld by the State Water Board in a precedential order adopted on August 4, 2009. In this Order, the State Water Board rejected a challenge to amendments to the Los Angeles County MS4 permit that require compliance with receiving water limitations and discharge prohibitions for dry weather, non-storm water discharges. Petitioners there argued that the receiving water limits and discharge prohibitions for dry weather dischargers were inappropriate and that the Los Angeles Water Board should instead have regulated the discharges with the maximum extent practicable standard, through an iterative process. The State Water Board concludes that dry weather discharges, as defined in the permit and in the underlying TMDL, "are more appropriately regarded as non-storm water discharges, which the Clean Water Act requires to be effectively prohibited."[89]

As stated above, for NPDES permits under 402 of the CWA, the Code of Federal Regulations (122.44(k)) clarify that a discharger may utilize BMPs to control or abate the discharge of pollutants when:

> "(1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;
> (2) Authorized under section 402(p) of the CWA for the control of storm water discharges;
> (3) Numeric limits are infeasible; or
> (4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA."

[89] State Water Board Order WQ-2009-0008 (*In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, adopted August 4, 2009), p. 8

For the last 19 years, Southern Orange County NPDES permits for discharges of storm water have regulated non-storm water discharges from the MS4. These permits required Copermittees (dischargers) to prohibit non-storm water discharges into (thus through and from) their MS4 systems, implement a program to prevent illicit discharges, and monitor to identify illicit discharges and exempted discharges that are a source of pollution. These measures are considered Best Management Practices (BMPs), are required to be included in NPDES permits issued under Section 402(p) of the CWA, and are considered by USEPA to be an interim approach to permitting non-storm water discharges from the MS4 in accordance with section 402 of the CWA and CFR 122.44(k).

As explained in the discussion of Finding C.15., below, the Copermittees' reliance on BMPs for the past 19 years has not resulted in compliance with applicable water quality standards. The Regional Board has evaluated (in accordance with 40 CFR 122.44(d)(1)) past and existing controls (BMPs), non-storm water effluent monitoring results, the sensitivity of the species in receiving waters (e.g. endangered species), and the potential for effluent dilution, and has determined that existing BMPs to control pollutants in storm water discharges are not sufficient to protect water quality standards in receiving waters and the existing requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges into the MS4 historically results in the discharge of pollutants to the receiving waters. Thus, numeric action levels for non-storm water, dry weather, discharges from the MS4 and required actions following observed exceedances of numeric action levels have been established. For further discussion regarding the development of action levels please see Finding E.12 and discussion.

Dry weather action levels are applicable to non-storm water discharges of effluent from the MS4 system. Non-storm water effluent discharges from the MS4 are those which occur during dry weather conditions. These action levels are not applied to storm water discharges, as defined within the Order. Storm water discharges regulated by the Order are required to meet the MEP standard and related iterative process and have separate action levels.

Dry weather action levels are applicable to non-storm water discharges from the MS4 system into receiving waters. Non-storm water discharges are already required to be prohibited unless specifically exempted or covered under a separate NPDES permit. Dry weather action levels apply to non-storm water discharges of effluent from a point source into receiving waters. The MS4 is not a receiving water. Should a discharger wish to discharge a non-exempt category to the MS4 system, such discharges require a separate NPDES permit pursuant to sections 402 and 301 of the CWA. It is also infeasible to monitor and sample every discharge into the MS4, as such discharges are diffuse by nature and may vary spatially and temporally.

Finding C.15. Non-storm water discharges to the MS4 granted an influent exception (i.e., which are exempt from the effective prohibition requirement set forth in CWA section 402(p)(3)(B)(ii)) under 40 CFR 122. 26 are included within this Order. Any exempted discharges identified by Copermittees as a source of pollutants are subsequently required to be *addressed* (emphasis added) as illicit discharges through prohibition and incorporation into existing IC/ID programs. The Copermittees have identified landscape irrigation, irrigation water and lawn water, previously exempted discharges, as a source of pollutants and conveyance of pollutants to waters of the United States.

Discussion of Finding C.15. The Federal Register (55, page 48037) and 40 CFR 122.26(d)(iv)(B) clarify that certain components and categories of non-storm water discharges into the MS4 are not required to be prohibited. The Code of Federal Regulations requires the discharger have:

> "…a program, including inspections, to implement through ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program shall address all types of illicit discharges, however, the following category of non-storm water discharges or flows shall only be addressed where such discharges are identified by the municipality as sources of pollutants to the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20) to separate storm sewers, uncontaminated pumped groundwater,…"

As such, the identification of any of these categories as a source of pollutants requires them to be addressed as illicit discharges, which are not authorized under the CWA, and are required to be "effectively prohibited" as illicit discharges via ordinance, order or similar means. The prohibition of previously exempted discharges of non-storm water to waters of the United States from entering, and necessarily being discharged from an MS4, conforms with CWA requirements for standards and enforcement for effluent limitations to necessary to meet water quality standards (33 U.S.C. 1311(b)(1)(C)).

To date the Copermittees have identified overspray and drainage from potable and reclaimed water landscape irrigation as a substantial source and conveyance mechanism for pollutants into waters of the United States. Irrigation runoff into the MS4, as identified by the Copermittees, is a source of pollutants to waters of the United States, and is required to be *addressed* (emphasis added) as an illicit discharge per 40 CFR 122.26(d)(2)(iv)(B)(1) by prohibition through implementing and enforcing an ordinance, order or similar means. The Copermittees have identified irrigation water as a source of pollutants and conveyance of pollutants to waters of the United States, when applied improperly in excess and thereafter entering the MS4, in the following documents:

- Per requirements of 401 Water Quality Certification 02C-055, the County of Orange conducted a **Drainage Area Reconnaissance and Urban Runoff**

Characterization study. From the reconnaissance and characterization, the County of Orange determined that:

> "…*water quality results provided two important findings*." First, "*analytical data strongly indicates that irrigation overspray and drainage constitutes a very substantial source and conveyance mechanism for fecal indicator bacteria into Aliso Creek, and suggests that reduction measures for this source of urban runoff could provide meaningful reduction in bacteria loading to the stream*."

- Aliso Creek, currently 303(d) listed as impaired for Indicator Bacteria, is included in the Bacteria Project I TMDL adopted by the Regional Board on December 12, 2007. Secondly, reclaimed water high in electrical conductivity and Nitrate was indicated as:

  > "…*the source water at three of the excessive runoff locations (P1,P2,J01). These dissolved nitrogen concentration and flow rates create relatively high nitrogen loadings, which have the potential to contribute to undesirable levels of periphytic algal growth in Aliso Creek.*"

- On November 15, 2007 the **Unified Annual Progress Report Program Effectiveness Assessment** for the 2006-2007 reporting period was submitted by the Copermittees. Within the report, the Copermittees demonstrate that a "*wide range of constituents exceeded the tolerance interval bounds*", including orthophosphate. Tolerance interval bounds are pollutant levels set by the Copermittees that represent when a problem may be occurring. These tolerance levels sometimes equate with Basin Plan Objectives (BPOs) and California Toxic Rules (CTR) and USEPA Criteria. The report states that "*high levels of orthophosphate concentration are most likely the result of fertilizer runoff or reclaimed water runoff*". Aliso Creek is currently 303(d) listed as impaired for phosphorous.

- On November 15, 2007 the **Watershed Action Plan Annual Report**(s) for the 2006-2007 reporting period was submitted by the County of Orange, Orange County Flood Control District and Copermittees within the San Juan Creek, Laguna Coastal Streams, Aliso Creek, and Dana Point Coastal Streams Watersheds. San Juan Creek, Laguna Coastal Streams, Aliso Creek and Dana Point Coastal Streams are all currently 303(d) listed as impaired for Indicator Bacteria within their watersheds and/or in the Pacific Ocean at the discharge points of their watersheds. These locations are included in the Bacteria Project I TMDL adopted by the Regional Board on December 12, 2007. The Copermittees, within their Watershed Action Strategy Table for Fecal Indicator Bacteria

  > "*Support programs to reduce or eliminate the discharge of anthropogenic dry weather nuisance flow throughout the […] watershed. Dry weather flow is the transport medium for bacteria and other 303(d) constituents of*

concern". Additionally, they state that "*conditions in the MS4 contribute to high seasonal bacteria propagation in-pipe during warm weather. Landscape irrigation is a major contributor to dry weather flow, both as surface runoff due to over-irrigation and overspray onto pavements; and as subsurface seepage that finds its way into the MS4*."

- In 2006, the State Water Quality Control Board (State Board) allocated Grant funding to the **SmartTimer/Edgescape Evaluation Program (SEEP)**. Project partners include the following Copermittees: the Cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Nigel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita and San Juan Capistrano. Also included in the study were the Metropolitan Water District of Southern California, the Department of Agriculture and ten south Orange County water districts. The project targets irrigation runoff by retrofitting existing development and documenting the conservation and runoff improvements. The Grant Application states that:

  "*Irrigation runoff contributes flow & pollutant loads to creeks and beaches that are 303(d) listed for bacteria indicators.*"

  Furthermore, the grant application states:

  "*Regional program managers agree that the reduction and/or elimination of irrigation-related urban flows and associated pollutant loads may be key to successful attainment of water quality and beneficial use goals as outlined in the San Diego Basin Plan and Bacteria TMDL over the long term.*"

  This is reinforced in the project descriptions and objectives:

  "*Elevated dry-weather storm drain flows, composed primarily in the South Orange County Region of landscape irrigation water wasted as runoff, carry pollutants that impair recreational use and aquatic habitats all along Southern California's urbanized coastline. Storm drain systems carry the wasted water, along with landscape derived pollutants such as bacteria, nutrients and pesticides, to local creeks and the ocean. Given the local Mediterranean climate, excessive perennial dry season stream flows are an unnatural hydrologic pattern, causing species shifts in local riparian communities and warm, unseasonal contaminated freshwater plumes in the near-shore marine environment*".

  The basis of this grant project, conducted by the Copermittees and additional water use partners, is that over-irrigation (landscape irrigation, irrigation water and lawn watering) into the MS4 is a source and conveyance of pollutants. In addition, they indicate that this alteration of natural flows is impacting the Beneficial Uses of Waters of the State and U.S.

D. Runoff Management Programs

Finding D.1.a. This Order specifies requirements necessary for the Copermittees to reduce the discharge of pollutants in storm water runoff to the maximum extent practicable (MEP). However, since MEP is a dynamic performance standard, which evolves over time as runoff management knowledge increases, the Copermittees' runoff management programs must continually be assessed and modified to incorporate improved programs, control measures, best management practices (BMPs), etc. in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of runoff management program implementation is expected to ultimately achieve compliance with water quality standards in the Region.

Discussion of Finding D.1.a. Under CWA section 402(p), municipalities are required to reduce the discharge of storm water pollutants from their MS4s to the maximum extent practicable (MEP). MEP is the critical technology-based performance standard that municipalities must attain. The MEP standard is an ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility. As knowledge about controlling storm water runoff continues to evolve, so does that which constitutes MEP. Reducing the discharge of storm water pollutants to the MEP requires Copermittees to assess each program component and revise activities, control measures, best management practices (BMPs), and measurable goals, as necessary to meet MEP.

To achieve the MEP standard, municipalities must employ whatever BMPs are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing storm water pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

1. Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?
2. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?
3. Public Acceptance: Does the BMP have public support?
4. Cost: Will the cost of implementing the BMP have a reasonable relationship to he pollution control benefits to be achieved?
5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?

If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive BMPs, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost is prohibitive, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP based solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be easily dismissed. In any case, the burden is on the municipal discharger to show compliance with its permit. After selecting BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented.[90]

A definition of MEP is not provided in either the federal statute or in the federal regulations. The final determination regarding whether a municipality has reduced storm water pollutants to the MEP can only be made by the Regional Board or the State Board, and not by the municipal discharger. While the Regional Board or the State Board ultimately define MEP, it is the responsibility of the Copermittees to initially propose actions that implement BMPs to reduce storm water pollution to the MEP. In other words, the Copermittees' runoff management programs to be developed under the Order are the Copermittees' proposals of MEP. Their total collective and individual activities conducted pursuant to their runoff management programs become their proposal for MEP as it applies both to their overall effort, as well as to specific activities. The Order provides a minimum framework to guide the Copermittees in meeting the MEP standard for storm water.

It is the Regional Board's responsibility to evaluate the proposed programs and specific BMPs to determine what constitutes MEP, using the above guidance and the court's 1994 decision in NRDC v. California Department of Transportation, Federal District Court, Central District of California. The federal court stated that a Copermittee must evaluate and implement BMPs except where (1) other effective BMPs will achieve greater or substantially similar pollution control benefits; (2) the BMP is not technically feasible; or (3) the cost of BMP implementation greatly outweighs the pollution control benefits. In the absence of a proposal acceptable to the Regional Board, the Regional Board will define MEP by requiring implementation of additional measures by the Copermittees.

[90] State Water Resources Control Board, 1993. Memo Entitled Definition of Maximum Extent Practicable.

The Copermittees' continual evolution in meeting the MEP standard is expected to achieve compliance with water quality standards. USEPA has consistently supported this expectation. In its Interim Permitting Approach for Water Quality-Based Effluent Limitations (WQBELs) in Storm Water Permits, USEPA states "the interim permitting approach uses best management practices (BMPs) in first-round storm water permits, and expanded or better-tailored BMPs in subsequent permits, where necessary, to provide for attainment of water quality standards."[91] USEPA reiterated its position in 1999, when it stated regarding the Phase II municipal storm water regulations that "successive iterations of the mix of BMPs and measurable goals will be driven by the objective of assuring maintenance of water quality standards" and "EPA anticipates that a permit for a regulated small MS4 operator implementing BMPs to satisfy the six minimum control measures will be sufficiently stringent to protect water quality, including water quality standards […]."[92]

The requirements of the Order are expected to achieve compliance with receiving water quality standards. The approach to be used is the continual assessment, revision, and improvement of Copermittee best management practice implementation. This approach is consistent with the Clean Water Act and State Board guidance. In Defenders of Wildlife v. Browner (1999, 197 F. 3d 1035), the United States Court of Appeals for the Ninth Circuit states: "Under 33 U.S.C. section 1342 (p)(3)(B)(iii), the EPA's choice to include either management practices or numeric limitations in the permits was within its discretion." In addition, the approach is consistent with State Board Order WQ 99-05, which outlines an iterative approach for achieving compliance with water quality standards.

Finding D.1.b. The Copermittees have generally been implementing the jurisdictional runoff management programs required pursuant to Order No. R9-2002-01 since February 13, 2003. Prior to that, the Copermittees were regulated by Order No. 96-03 since August 8, 1996. Runoff discharges, however, continue to cause or contribute to violations of water quality standards as evidenced by the Copermittees monitoring results.[93]

[91] Federal Register / Vol. 61, No. 166 / August 26, 1996 / P. 43761.
[92] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68753-68754.
[93] Orange County Storm Water Program, 2006. Unified Annual Progress Report, Program Effectiveness Assessment (San Diego Region).

Discussion of Finding D.1.b. In response to Order No. R9-2002-01, the Copermittees have improved their runoff management programs. For instance, comprehensive runoff management plans have been developed. In order to implement the plans, the Copermittees have, among other things, developed BMP requirements, improved inter- and intra-governmental coordination, improved training programs, improved illicit discharge detection procedures, and improved their monitoring efforts. Although the programmatic improvements have led to better implementation of BMPs, the Copermittees' monitoring data demonstrate that additional or revised BMPs are necessary to prevent discharges from MS4s from causing and contributing to violations of water quality standards. A discussion of data collected by the Copermittees is included in the discussion for Finding C.9.

Finding D.1.c. This Order contains new or modified requirements that are necessary to improve Copermittees' efforts to reduce the discharge of storm water pollutants in runoff to the MEP and achieve water quality standards. Some of the new or modified requirements, such as the revised Watershed Runoff Management Program section, are designed to specifically address these high priority water quality problems. Other new or modified requirements address program deficiencies that have been noted during audits, report reviews, and other Regional Board compliance assessment activities.

Discussion of Finding D.1.c. The Copermittees are required to update and expand their runoff management programs on jurisdictional and watershed levels in order to improve their efforts to reduce the contribution of storm water pollutants in runoff to the MEP and meet water quality standards. Changes to Order No. R9-2002-01's requirements have been made to help ensure these two standards are achieved by the Copermittees.

The Orders' jurisdictional requirements have changed based on findings by the Regional Board during typical compliance assurance activities or receipt of complaints.[94] The Regional Board performed full jurisdictional program audits of 8 of the 13 Copermittees during the Order No. R9-2002-01 permit term. Where the audits found common implementation problems, requirements have been altered to better ensure compliance. In addition, the Regional Board conducted detailed reviews of every jurisdictional annual report submitted by the Copermittees. Updates to the Copermittees' programs are also based on recommendations found in the Copermittees' ROWD.[95] In many instances, the Copermittees and the Regional Board have identified similar issues that merit program modifications.

[94] Audit reports, report reviews, and inspection reports are available for review at the Regional Board office.
[95] All significant changes made to the Order's requirements are described and explained in detail in Fact Sheet section X.

To better focus on attainment of water quality standards, the Order's watershed requirements have been improved. The conditions of the receiving waters now drive management actions, which in turn focus diminishing resources on the highest priority water quality problems within the receiving waters in each watershed. Improvements to watershed requirements were also made to facilitate a mutually clear understanding of the requirements between the Regional Board and Copermittees.

Finding D.1.d. Updated Jurisdictional Runoff Management Plans (JRMPs) and Watershed Runoff Management Plans (WRMPs), which describe the Copermittees' runoff management programs in their entirety, are needed to guide the Copermittees' runoff management efforts and aid the Copermittees in tracking runoff management program implementation. It is practicable for the Copermittees to update the JRMPs and WRMPs within one year, since significant efforts to develop these programs have already occurred.

Discussion of Finding D.1.d. Development of runoff management plans is a crucial runoff management measure and should be considered a BMP. The plans help organize and focus the Copermittees' programs and guide their implementation. In its statewide assessment report to USEPA Region IX and the State Board, Tetra Tech, Inc. concluded that the lack of a master storm water planning document must be considered a serious program deficiency[96]. When submitted to the Regional Board, the plans provide useful correspondence between the Copermittees and the Regional Board. The Plans also become available for review by the public, and thus facilitate public participation in runoff management decisions. Finally, while development and submittal of runoff management plans are not necessary to ensure compliance of the Copermittees' runoff management programs with the Order, the Regional Board is provided with a means to track Copermittee implementation.

The focus of the Order is on development and implementation of storm water programs which meet MEP, rather than creation of Copermittee plans which exhibit MEP. While the Order does not rely upon the plans to ensure MEP and other standards are achieved, the plans still serve a useful purpose. As stated above, the plans serve to organize the Copermittees' efforts to address runoff. As a practical matter, any program of the size required by the Order should be documented in writing. This serves to guide implementation of the program by the numerous individuals responsible for program implementation.

[96] Tetra Tech, Inc. 2006. *Assessment Report on Tetra Tech's Support of California's MS4 Stormwater Program.* Produced for USEPA Region IX and the California State and Regional Water Quality Control Boards.

Runoff management plans are not necessary for ensuring compliance with the Order because the Order itself contains sufficient detailed requirements to ensure that compliance with discharge prohibitions, receiving water limitations, and the narrative standard of MEP for storm water are achieved. Implementation by the Copermittees of programs in compliance with the Order's requirements, prohibitions, and receiving water limitations is the pertinent compliance standard to be used under the Order, as opposed to assessing compliance by reviewing the Copermittees' implementation of their plans alone. The Regional Board ensures compliance with the Order by reviewing annual reports, conducting inspections, performing audits, and through other general program oversight.

Runoff management plans are particularly important and useful for municipalities when program implementation is spread across several departments and/or when municipalities experience staff turnover.[97] Each Copermittee relies on multiple employees or contractors for program implementation, but the spread of responsibility varies among Copermittees.[98] Written jurisdictional plans ensure appropriate coordination within each municipality.

Copermittees' runoff management plans are simply descriptions of their runoff management programs required under the Order. These plans serve as procedural correspondence which guides program implementation and aids the Copermittees and Regional Board in tracking implementation of the programs. In this manner, the plans are not functional equivalents of the Order. For these reasons, the Copermittees' runoff management plans need not be an enforceable part of the Order.

The Copermittees' plans and programs can be updated within one year because much of their plans and programs are already in existence. In fact, many parts of their plans and programs have been in place for 15 years. Moreover, the adoption of Order No. R9-2002-01 required a larger scale reorganization of the Copermittees' programs than Tentative Order No. R9-2009-0002, but also allowed one year for program updates. The Copermittees were generally able to meet the time schedule required under Order No. R9-2002-01.

Finding D.1.e. Pollutants can be effectively reduced in storm water runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Pollution prevention is the reduction or elimination of pollutant generation at its source and is the best "first line of defense". Source control BMPs (both structural and non-structural) minimize the contact between pollutants and flows (e.g., rerouting run-on around pollutant sources or keeping pollutants on-site and out of receiving waters). Treatment control BMPs remove pollutants that have been mobilized by wet-weather or dry-weather flows.

[97] Tetra Tech, Inc. 2005. Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.
[98] Responsible departments and employees are described in the 2005-06 Annual Reports for the MS4 programs.

Discussion of Finding D.1.e. The State Board finds in its Order No. WQ 98-01 that BMPs are effective in reducing pollutants in storm water runoff, stating that "implementation of BMPs [is] generally the most appropriate form of effluent limitations when designed to satisfy technology requirements, including reduction of pollutants to the maximum extent practicable." A State Board TAC further supports this finding by recommending "that nonpoint source pollution control can be accomplished most effectively by giving priority to [BMPs] in the following order:

1. Pollution Prevention – implementation of practices that use or promote pollution free alternatives;
2. Source Control – implementation of control measures that focus on preventing or minimizing urban runoff from contacting pollution sources;
3. Treatment Control – implementation of practices that require treatment of polluted runoff either onsite or offsite."[99]

Pollution prevention, the reduction or elimination of pollutant generation at its source, is an essential aspect of BMP implementation. Fewer pollutants are available to be washed from developed areas when the generation of pollutants by activities is limited. Thus, pollutant loads in storm water discharges are reduced from these areas. In addition, there is no need to control or treat pollutants that are never generated.[100] Furthermore, pollution prevention BMPs are generally more cost effective than removal of pollutants by treatment facilities or cleanup of contaminated media.[101,102]

In the Pollution Prevention Act of 1990, Congress established a national policy that emphasizes pollution prevention over control and treatment. CWC section 13263.3(a) also supports pollution prevention, stating "The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society. The Legislature also finds and declares that pollution prevention is necessary to support the federal goal of zero discharge of pollutants into navigable waters." Finally, the Basin Plan also supports this finding by stating "To eliminate pollutants in storm water, one can either clean it up by removing pollutants or prevent it from becoming polluted in the first place. Because of the overwhelming volume of storm water and the enormous costs associated with pollutant removal, pollution prevention is the only approach that makes sense."[103]

---

[99] State Board, 1994. Urban Runoff Technical Advisory Committee Report and Recommendations. Nonpoint Source Management Program.
[100] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region).
[101] Devinny, J.S. et al. 2004. *Alternative Approaches to Stormwater Quality Control.* Prepared for the Los Angeles Regional Water Quality Control Board. Found as Appendix H to *NPDES Stormwater Cost Survey.* Prepared for the California State Water Resources Control Board by the Office of Water Programs California State University, Sacramento. Available on-line at: http://www.owp.csus.edu/research/npdes/
[102] Schueler, T.R.., 2000. Center for Watershed Protection. Assessing the Potential for Urban Watershed Restoration, Article 142.
[103] Regional Board, 1994. Water Quality Control Plan, San Diego Basin, Region 9.

USEPA also supports the utilization of a combination of BMPs to address pollutants in runoff. For example, USEPA has found there has been success in addressing illicit discharge related problems through BMP initiatives like storm drain stenciling and recycling programs, including household hazardous waste special collection days.[104] Structural BMP performance data has also been compiled and summarized by USEPA.[105]

The summary provides the performance ranges of various types of structural BMPs for removing suspended solids, nutrients, pathogens, and metals from storm water flows. These pollutants are generally a concern in storm water in the San Diego Region and Orange County.[106] For suspended solids, the least effective structural BMP type was found to remove 30-65 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For nutrients, the least effective structural BMP type was found to remove 15-45 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For pathogens, the least effective structural BMP type was found to remove <30 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For metals, the least effective structural BMP type was found to remove 15-45 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load.

Several studies conducted in the last few years have measured the effectiveness of treatment BMPs in southern Orange County. Studies have been conducted on both dry weather and wet weather flows. Each demonstrates that treatment control BMPs can, to varying degrees, remove pollutants from runoff, but that pollution prevention and source control BMPs are necessary to reduce storm water pollutant discharges to the point of supporting water quality objectives in the receiving waters. A partial list of such studies includes:

1. "Assessment of Best Management Practice (BMP) Effectiveness" by the Southern California Coastal Water Research Project (SCCWRP).[107] This project assesses the effectiveness of BMPs in southern California for improving water quality related to toxicity.

2. "Final Report for the Del Obispo Storm Drain Project" by the City of Dana Point.[108] This report assesses the implementation of a solids removal unit and low-flow diversion project.

[104] USEPA, 1999. 40 CFR Parts 9, 122, 123, and 124 National Pollutant Discharge Elimination System-Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges. 64 FR 68728.
[105] USEPA, 1999. Preliminary Data Summary of Urban Storm Water Best Management Practices. EPA 821-R-99-012.
[106] Orange County Stormwater Program, Appendix E1 BMP Effectiveness and Applicability for Orange County (updated June 2005).
[107] Jeffrey S. Brown and Steven M. Bay 2005. *Assessment of Best Management Practice (BMP) Effectiveness.* SCCWRP Technical Report 461.
[108] City of Dana Point. 2005. *Final Report for the Del Obispo Storm Drain Project*. Prepared for the State Water Resources Control Board Agreement No. 02-216-550-0.

3. "Final Report for the Alipaz Storm Drain Treatment and Low Flow Diversion Project" by the City of Dana Point.[109] This report assesses the implementation of a solids removal unit and low-flow diversion project.

4. "Final Report for Poche Beach Urban Runoff Ultraviolet Light Bacteria Disinfection Project" by the County of Orange.[110] This report assesses the implementation of an ultraviolet system within a box culvert.

5. Final Report for J01P28 Interim Water Quality Improvement Package Plant Best Management Practices.[111] This report assesses the implementation of an ultraviolet treatment system at an inland waters storm drain outfall.

6. "Final Report for Wetland Capture and Treatment (WetCAT) Network" by the City of Laguna Niguel.[112] This report assesses the implementation of constructed wetlands.

Results of these recent studies demonstrate that treatment at the MS4 outfalls for pollutants that have already been discharged *into* the MS4 is generally unlikely to reduce pollutant concentrations to levels that would support water quality objectives. It also demonstrates that non-storm water discharges are occurring into the MS4 that are illicit discharges, exempted discharges that are a source of pollutants and/or discharges under a separate NPDES permit that are in violation of that permit.

It is important to note that the Clean Water Act and NPDES federal regulations clearly require control of discharges into the MS4. Section 402(p)(3)(B)(ii) of the Clean Water Act states that MS4 permits must "prohibit non-storm water discharges into the storm sewers." 40 CFR 122.26(d)(2)(iv)(B) requires Copermittees to "detect and remove […] illicit discharges and improper disposal into the storm sewer." See Finding C.14 and Discussion.

[109] City of Dana Point. 2004. *Final Report For The Alipaz Storm Drain Treatment And Low Flow Diversion Project" by the City of Dana Point.* Prepared for State Water Resources Control Board Agreement Number: 01-068-550-0.
[110] Volz, James. 2005. *Final Report for Poche Beach Urban Runoff Ultraviolet Light Bacteria Disinfection Project*. Prepared by the County of Orange for State Water Resources Control Board Agreement No. 01-236-550-1.
[111] Anderson, Max. 2005. Final Report: Aliso Beach Clean Beach Initiatives, J01P28 Interim Water Quality Improvement Package Plant Best Management Practices. Prepared by the County of Orange for State Water Resources Control Board Agreement No. 01-227-550-0.
[112] City of Laguna Niguel and CH2MHILL. 2004. *Final Report: Wetland Capture and Treatment (WetCAT) Network.* Prepared for State Water Resources Control Board Agreement No. 01-122-259-0.

The Order's approach to regulating discharges into and from the MS4 is in accordance with State Board Order WQ 2001-15. In that order, the State Board reviewed the San Diego County permit (Order No. 2001-01) requirements and made one change to one prohibition.[113] The Order upheld all other requirements of the current permit. Order No. R9-2009-0002 incorporates the one change made by the State Board, and continues the approach of Order No. 2001-01 (the basis for the current permit), as it was upheld by the State Board in Order WQ 2001-15. State Board Order WQ 2001-15 supports such requirements, stating: "It is important to emphasize that dischargers into MS4s continue to be required to implement a full range of BMPs, including source control."

The Court of Appeals, Fourth Appellate District, found that the current permit's approach to regulation of discharges into the MS4 was appropriate. Since the Tentative Order utilizes the same approach, the court decision supports the Tentative Order's requirements.

Finding D.1.f. Runoff needs to be addressed during the three major phases of urban development (planning, construction, and use) in order to reduce the discharge of storm water pollutants to the MEP, effectively prohibit non-storm water discharges and protect receiving waters. Development which is not guided by water quality planning policies and principles can unnecessarily result in increased pollutant load discharges, flow rates, and flow durations which can impact receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development generates substantial pollutant loads which are discharged in runoff to receiving waters.

Discussion of Finding D.1.f. MS4 permits are issued to municipalities because of their land use authority. The ultimate responsibility for the pollutant discharges, increased runoff, and inevitable long-term water quality degradation that results from development lies with local governments. This responsibility is based on the fact that it is the local governments that have authorized the development (i.e., conversion of natural pervious ground cover to impervious surfaces) and the land uses that generate the pollutants and runoff. Furthermore, the MS4 through which the pollutants and increased flows are conveyed, and ultimately discharged into natural receiving waters, are owned and operated by the same local governments. In summary, the Copermittees under the Order are responsible for discharges into and out of their MS4s because (1) they own and operate the MS4; and (2) they have the legal authority that authorizes the very development and land uses with generate the pollutants and increased flows in the first place.

[113] The State Board removed the prohibition of discharges *into* the MS4 that cause or contribute to exceedances of water quality objectives. The revision allows for treatment of storm water flows once the pollutants have entered the MS4. It does not affect the effective prohibition on certain dry-weather flows into the MS4 that is required by the Clean Water Act.

For example, since grading cannot commence prior to the issuance of a local grading permit, the Copermittees have a built-in mechanism to ensure that all grading activities are protective of receiving water quality. The Copermittee has the authority to withhold issuance of the grading permit until the project proponent has demonstrated to the satisfaction of the Copermittee that the project will not violate their ordinances or cause the Copermittee to be in violation of its MS4 permit. Since the Copermittee will ultimately be held responsible for any discharges from the grading project by the Regional Board, the Copermittee will want to use its own permitting authority to ensure that whatever measures the Copermittee deems necessary to protect discharges into its MS4 are in fact taken by the project proponent.

The Order holds the local government accountable for this direct link between its land use decisions and water quality degradation. The Order recognizes that each of the three major stages in the development process (development planning, construction, and the use or operational stage) are controlled by and must be authorized by the local government. Accordingly, this permit requires the local government to implement, or require others to implement, appropriate best management practices to reduce storm water pollutant discharges and increased flow during each of the three stages of development.

Including plans for BMP implementation during the design phase of new development and redevelopment offers the most cost effective strategy to reduce storm water runoff pollutant loads to surface waters.[114] The Phase II regulations for small municipalities reflect the necessity of addressing runoff during the early planning phase. Due to the greater water quality concerns generally experienced by larger municipalities, Phase II requirements for small municipalities are also applicable to larger municipalities such as the Copermittees. The Phase II regulations direct municipalities to develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. The program must ensure that controls are in place that would prevent or minimize water quality impacts. This includes developing and implementing strategies which include a combination of structural and/or non-structural BMPs appropriate to the locality. The program must also ensure the adequate long-term operation and maintenance of BMPs.[115] USEPA expands on the Phase II regulations for urban development when it recommends that Copermittees:

[114] USEPA, 2000. Storm Water Phase II Compliance Assistance Guide. EPA 833-R-00-002.
[115] USEPA, 1999. 40 CFR Parts 9, 122, 123, and 124 National Pollutant Discharge Elimination System-Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule. 64 FR 68845.

> "Adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality."

Management of storm water runoff during the construction phase is also essential. USEPA explains in the preamble to the Phase II regulations that storm water discharges generated during construction activities can cause an array of physical, chemical, and biological water quality impacts. Specifically, the biological, chemical and physical integrity of the waters may become severely compromised due to runoff from construction sites. Fine sediment from construction sites can adversely affect aquatic ecosystems by reducing light penetration, impeding sight-feeding, smothering benthic organisms, abrading gills and other sensitive structures, reducing habitat by clogging interstitial spaces within the streambed, and reducing intergravel dissolved oxygen by reducing the permeability of the bed material. Water quality impairment also results, in part, because a number of pollutants are preferentially absorbed onto mineral or organic particles found in fine sediment. The interconnected process of erosion (detachment of the soil particles), sediment transport, and delivery is the primary pathway for introducing key pollutants, such as nutrients, metals, and organic compounds into aquatic systems.[116]

Finally, storm water and non-storm water runoff from existing development must be addressed. The Copermittees' monitoring data exhibits that significant water quality problems exist in receiving waters which receive runoff from areas with extensive existing development, such as Aliso Creek. Source identification, BMP requirements, inspections, and enforcement are all important measures which can be implemented to address runoff from existing development. USEPA supports inspections and enforcement by municipalities when it states "Effective inspection and enforcement requires […] penalties to deter infractions and intervention by the municipal authority to correct violations. Enforcement mechanisms […] also must be described."[117]

Finding D.1.g. Annual reporting requirements included in this Order are necessary to meet federal requirements and to evaluate the effectiveness and compliance of the Copermittees' programs.

Discussion of Finding D.1.g. The annual reporting requirements are consistent with federal NPDES regulation 40 CFR 122.41, which states:

[116] Ibid., 64 FR 68728.
[117] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.

> "The operator of a large or medium municipal separate storm sewer system of a municipal separate storm sewer system that has been designated by the Director under section 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such a system. The report shall include: (1) The status of implementing the components of the storm water management program that are established as permit conditions; (2) Proposed changes to the storm water management program that are established as permit condition, Such proposed changes shall be consistent with § 122.26(d)(2)iii) of this part; (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under § 122.26(d)(2)iv) and (d)(2)(v) of this part; (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; (5) Annual expenditures and budget for year following each annual report; (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and (7) Identification of water quality improvements or degradation."

CWC section 13267 provides that "the regional board may require that any person who has discharged […] shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires."

The Regional Board must assess the reports to ensure that the Copermittees' programs are adequate to assess and address water quality. The reporting requirements can also be useful tools for the Copermittees to review, update, or revise their programs. Areas or issues which have received insufficient efforts can also be identified and improved.

Finding D.1.h. This Order establishes Storm Water Action Levels (SALs) for selected pollutants based on USEPA Rain Zone 6 (arid southwest) Phase I MS4 monitoring data for pollutants in storm water. The SALs were computed as the 90th percentile of the data set, utilizing the statistical based population approach, one of three approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). SALs are identified in Section D of this Order. Copermittees shall implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the SALs. SALs express an integration of the adequacy/inadequacy of programmatic measures and BMPs required in this Order.

Discussion of Finding D.1.h. Section 402(p) of the CWA states MS4 permits for storm water shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the

Administrator or the State determines appropriate for the control of such pollutants. This includes requiring numeric effluent limitations for storm water.

SALs are not numeric effluent limitations, which is reflected in language which clarifies an excursion above a SAL does not create a presumption that MEP is not being met. Instead, a SAL exceedance is to be used by the Copermittee as an indication that the MS4 storm water discharge point is a definitive "bad actor," and the result from the monitoring needs to be considered as part of the iterative process for reducing pollutants in storm water to the MEP.

The CWA defines effluent limitations as:
“Any restriction imposed by the Director on quantities, discharge rates, and concentrations of pollutants which are “discharged” from “point sources” into “waters of the United States”…” A SAL is not a restriction on a quantity, rate or concentration, but is a level at which actions that further reduce pollutants from that discharge point need to be evaluated in order to reduce storm water pollutants to the MEP. Thus, SALs are not effluent limitations as defined by the CWC or CWA.

The approach of using "action levels" is consistent with recommendations made by USEPA in their Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, dated August 26, 1996:
"Under the Clean Water Act(CWA) and NPDES regulations, permitting authorities may employ a variety of conditions and limitations in storm water permits, including best management practices, performance objectives, narrative conditions, monitoring triggers, action levels (e.g., monitoring benchmarks, toxicity reduction evaluation action levels), etc., as the necessary water-quality based limitations, where numeric water quality based effluent limitations are determined to be unnecessary or infeasible". As such, these action levels are not considered numeric water quality-based effluent limitations.

It should be noted that a purpose of monitoring, required under this and previous Orders, is to aid in the evaluation of implemented programs and BMPs in reducing pollutants in storm water discharges to the MEP. The tentative Monitoring and Reporting Program states:

This Receiving Waters and Runoff Monitoring and Reporting Program is intended to meet the following goals:

2. Measure and improve the effectiveness of the Permittees’ runoff management programs;
3. Assess the chemical, physical, and biological impacts to receiving waters resulting from runoff discharges;
4. Characterize runoff discharges;
5. Identify sources of specific pollutants;
6. Prioritize drainage and sub-drainage areas that need management actions; and

9. Provide information to implement required BMP improvements.

For the past 4 permit cycles (19 years), Copermittees have utilized non-numerical limitations (BMPs) to control and abate the discharge of any pollutants in storm water discharges to the MEP. Copermittees have been accorded 19 years to research, develop, and deploy BMPs that are capable of reducing storm water discharges from the MS4 to levels represented in SALs. Storm Water Action Levels are set at such a level that any exceedance of a SAL will clearly indicate BMPs being implemented are insufficient to protect the Beneficial Uses of waters of the State. Copermittee shall utilize the exceedance information as a high priority consideration when adjusting and executing annual work plans, as required by this Permit. Failure to appropriately consider and react to SAL exceedances in an iterative manner creates a presumption that the Copermittee(s) have not complied to the MEP.

SALs have been developed utilizing Phase I storm water effluent data (updated February 2008, http://rpitt.eng.ua.edu/Research/ms4/mainms4.shtml) from the arid west region (USEPA Rain Zone 6). USEPA Rainfall Zone 6, which includes MS4 effluent data from Orange, San Diego, Los Angeles and Ventura County. While the County of Orange has a large monitoring data set, Regional Board staff have concluded that there is a lack of effluent monitoring from major outfalls that are representative of conditions throughout the Region. The approach taken to derive SALs is a straightforward percentile approach, with the SAL being set as the 90th percentile of the dataset for each constituent. This approach is consistent with the 2006 State Board Panel Report:

> "The statistically based population approach would once again rely on the average distribution of measured water quality values developed from many water quality samples taken for many events at many locations. In this case, however, the Action Level would be defined by the central tendency and variance estimates from the population data. For example, the Action Level could be set as two standard deviations above the mean, i.e. if measured concentrations are consistently higher than two standard deviations above the mean, an Action Level would be triggered. Other population based measures of central tendency could be used (i.e. geomean, median, etc.) or estimates of variance (i.e. prediction intervals, etc.). Regardless of which population based estimators are used (or percentile from above), the idea would be to identify the [statistically derived] point at which managers feel concentrations are significantly beyond the norm."

SALs are a measurable criteria which quantifies the performance of BMPs for a particular watershed or subwatershed that discharges storm water MS4 effluent from that particular discharge point. Thus, Copermittees can utilize SAL results to determine the effectiveness BMPs on the effluent from a particular area of the MS4.

SALs represent the lowest 10 percent of pollutant reduction for USEPA Rain Zone 6 MS4 Phase I programs discharging to waters of the United States. For the past 4

permit cycles (19 years), Copermittees have utilized non-numerical limitations (BMPs) to control and abate the discharge of any pollutants in storm water discharges to the MEP. Copermittees have been accorded 19 years to research, develop, and deploy BMPs that are capable of reducing storm water discharges from the MS4 to levels represented in SALs. Storm Water Action Levels are set at such a level that any exceedance of a SAL will indicate to the Copermittee(s) that the discharge is within the lowest 10% of monitored outfalls. Therefore, an exceedance of a SAL warrants priority consideration within the Copermittee iterative process.

Finding D.2.a. The Standard Storm Water Mitigation Plan (SSMP) requirements contained in this Order are consistent with Order WQ-2000-11 adopted by the State Water Resources Control Board (State Board) on October 5, 2000. In the precedential order, the State Board found that the design standards, which essentially require that runoff generated by 85 percent of storm events from specific development categories be infiltrated or treated, reflect the MEP standard. The order also found that the SSMP requirements are appropriately applied to the majority of the Priority Development Project categories contained in Section D.1 of this Order. The State Board also gave Regional Water Quality Control Boards the needed discretion to include additional categories and locations, such as retail gasoline outlets (RGOs), in SSMPs.

Discussion of Finding D.2.a. The post-construction requirements and design standards contained in the SSMP section of Order No. R9-2009-0002 constitute MEP consistent with State Board guidance, court decisions, and Regional Board requirements. The State Board and Regional Boards have made several recent decisions in regards to inclusion of SSMP requirements in MS4 permits. In a precedential decision, State Board WQ Order No. 2000-11, the State Board found that the SSMP provisions constitute MEP for addressing storm water pollutant discharges resulting from Priority Development Projects. The provisions of the SSMP section of the Order are also consistent with those previously issued by the Regional Board for Orange County (Order No. R9-2002-0001) and San Diego County (Order Nos. R9-2001-01 and R9-2007-0001), as well as requirements in the Los Angeles County MS4 permit (Order No. R4-2001-182). In State Board Order WQ 2001-15, the State Board reaffirmed that SSMP requirements constitute MEP. Moreover, the SSMP requirements of the San Diego County MS4 permit (Order No. R9-2001-01) were upheld when the California State Supreme Court declined to hear the matter on appeal.

Finding D.2.b. Controlling runoff pollution by using a combination of onsite source control and site design BMPs augmented with treatment control BMPs before the runoff enters the MS4 is important for the following reasons: (1) Many end-of-pipe BMPs (such as diversion to the sanitary sewer) are typically ineffective during significant storm events. Whereas, onsite source control BMPs can be applied during all runoff conditions; (2) End-of-pipe BMPs are often incapable of capturing and treating the wide range of pollutants which can be generated on a sub-watershed scale; (3) End-of-pipe BMPs are more effective when used as polishing BMPs, rather than the sole BMP to be implemented; (4) End-of-pipe BMPs do not protect the quality or beneficial uses of receiving waters between the pollutant source and the BMP; and (5) Offsite end-of-pipe BMPs do not aid in the effort to educate the public regarding sources of pollution and their prevention.

Discussion of Finding D.2.b. Many end-of-pipe BMPs are designed for low flow conditions because their end-of-pipe location prevents them from being designed for large storm events. This results in the end-of-pipe BMPs being overwhelmed, bypassed, or ineffective during larger storm events more frequently than onsite BMPs designed for larger storms. BMPs are also frequently most effective for a particular type of pollutant (such as sediment). Such BMPs may be appropriate for small sites with a limited suite of pollutants generated; however, end-of-pipe BMPs must typically be able to address a wide range of pollutants generated by a sub-watershed, limiting their effectiveness and/or increasing costs. Moreover, the location of some end-of-pipe BMPs allow for untreated pollutants to be discharged to and degrade receiving waters prior to their reaching the BMPs. This fails to protect receiving waters, which is the purpose of BMP implementation. In addition, opportunities to educate the public regarding runoff pollution can be lost when end-of-pipe BMPs are located away from pollutant sources and out of sight. Onsite BMPs can lead to a better public understanding of runoff issues since their presence can provide a visible and/or tangible lesson in pollution prevention.

Finding D.2.c. Use of Low-Impact Development (LID) site design BMPs at new development, redevelopment and retrofit projects can be an effective means for minimizing the impact of storm water runoff discharges from the development projects on receiving waters. LID is a site design strategy with a goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques. LID site design BMPs help preserve and restore the natural hydrologic cycle of the site, allowing for filtration and infiltration which can greatly reduce the volume, peak flow rate, velocity, and pollutant loads of storm water runoff. Current runoff management, knowledge, practices and technology have resulted in the use of LID BMPs as an acceptable means of meeting the storm water MEP standard.

Discussion of Finding D.2.c. The Clean Water Act (CWA) is the cornerstone of surface water quality protection in the United States. (The Act does not deal directly with ground water nor with water quantity issues.) The statute employs a variety of regulatory and nonregulatory tools to sharply reduce direct pollutant discharges into

waterways, and manage polluted runoff. These tools are employed to achieve the broader goal of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters so that they can support the protection and propagation of fish, shellfish, wildlife and recreation in and on the water.

Increasing the volume, velocity, frequency and discharge duration of storm water runoff from developed areas will eventually greatly accelerate downstream erosion, impair stream habitat in natural drainages, and negatively impact beneficial uses. Development and urbanization increase pollutant loads and volume while simultaneously increasing impervious area. Impervious surfaces can neither absorb water nor remove pollutants and thus lose the purification and infiltration provided by naturally vegetated soil. Furthermore, impervious surfaces tend to concentrate pollutants on the top of the surface that are then washed off into the MS4 and waters of the State in a concentrated manner. The use of Low-Impact Development (LID) site design BMPs can be an effective means of minimizing the impact of runoff discharges on receiving waters. By reducing water pollution, reducing runoff and increasing groundwater recharge, LID helps to improve the quality of receiving surface waters, stabilize the flow rates of receiving waters (preventing downstream hydromodification), reduce downstream flooding and protect and enhance water supply sources. Current runoff management, knowledge, practice and technology has resulted in the use of LID BMPs as an acceptable means of meeting the MEP standard for storm water treatment.

Current municipal codes may oppose or hinder the design, use and implementation of specific elements of LID. These codes include, but are not limited to, emergency services access requirements, building landscape ordinances, building height limits and parking space requirements. It is essential for Copermittees to work with other responsible agencies and/or update codes that have the potential to impact the use of LID.

The Local Government Commission, a non-profit organization working to build livable communities, developed a set of principles known as the *Ahwahnee Water Principles for Resource-Efficient Land Use*[118] that provide the opportunity to reduce costs and improve the reliability and quality of our water resources. Implementation of LID incorporates several of the Ahwahnee principles such as:

> 1. "Community Design should be compact, mixed use, walkable and transit-oriented so that urban runoff pollutants are minimized and the open lands that absorb water are preserved to the maximum extent possible."
> 3. "Water holding areas such as creek beds, recessed athletic fields, ponds, cisterns, and other features that serve to recharge groundwater, reduce runoff, improve water quality and decrease flooding should be incorporated into the urban landscape."

[118] Local Government Commission, "The Ahwahnee Water Principles – A Blueprint for Regional Sustainability", http://water.lgc.org/Members/tony/docs/lgc_water_guide.pdf

4. "All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater."
5. "Permeable surfaces should be used for hardscape. Impervious surfaces such as driveways, streets, and parking lots should be minimized so that land is available to absorb storm water, reduce polluted urban runoff, recharge groundwater and reduce flooding."

The use of LID site design BMPs helps reduce the amount of impervious area associated with development and allows storm water to infiltrate into the soil. Natural vegetation and soil filters storm water runoff and reduces the volume and pollutant loads of storm water. Studies have revealed that the level of imperviousness resulting from development and urbanization is strongly correlated with the water quality impairment of nearby receiving waters.[119] In many cases, the impacts on receiving waters due to changes in hydrology can be more significant than those attributable to the contaminants found in storm water discharges.[120] These impacts include stream bank erosion (increased sediment load and subsequent deposition), benthic habitat degradation, and decreased diversity of macroinvertebrates. Although conventional BMPs do reduce storm water pollutant loads, they may not effectively control adverse effects from changes in the discharge hydrologic conditions.[121]

The Order includes requirements for developments to include site design BMPs that mimic or replicate the natural hydrologic cycle. Open space designs which maximize pervious surfaces and retention of "natural" drainages have been found to reduce both the costs of development and pollutant export.[122] Moreover, USEPA finds including plans for a "natural" site design and BMP implementation during the design phase of new development and redevelopment offers the most cost effective strategy to reduce storm water pollutant loads to surface waters.[123] In addition, a recent U.S. Department of Housing and Urban Development guidance document on low-impact development notes that the use of LID-based storm water management design allows land to be developed, but in a cost-effective manner that helps mitigate potential environmental impacts.[124]

[119] USEPA, 1999. 40 CFR Parts 9, 122, 123, and 124 National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule.
[120] Ibid.
[121] USEPA, 2000. Low-Impact Development: A literature review. EPA-841-B-00-005. 35p.
[122] Center for Watershed Protection, 2000. "The Benefits of Better Site Design in Residential Subdivisions." Watershed Protection Techniques. Vol. 3. No. 2.
[123] USEPA, 1999. 40 CFR Parts 9, 122, 123, and 124 National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule.
[124] U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2003. "The Practice of Low Impact Development." Prepared by: NAHB Research Center, Inc. Upper Marlboro, Maryland. Contract No. H-21314CA. 131p.

Finding D.2.d. Retail Gasoline Outlets (RGOs) are significant sources of pollutants in storm water runoff. RGOs are points of convergence for motor vehicles for automotive related services such as repair, refueling, tire inflation, and radiator fill-up and consequently produce significantly higher loadings of hydrocarbons and trace metals (including copper and zinc) than other developed areas.

Discussion of Finding D.2.d. RGOs are included in the Order as a Priority Development Project category because RGOs produce significantly greater loadings of hydrocarbons and trace metals (including copper and zinc) than other developed areas. To meet the storm water MEP standard, source control and structural treatment BMPs are needed at RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) an ADT of 100 or more vehicles per day. These are appropriate thresholds since vehicular development size and volume of traffic are good indicators of potential impacts of storm water runoff from RGOs on receiving waters.

This finding has been added to satisfy State Board WQ Order No. 2000-11's requirements for including RGOs as a Priority Development Category. Order No. 2000-11 acknowledged that a threshold (size, average daily traffic, etc.) appropriate to trigger SSMP requirements should be developed for RGOs and that specific findings regarding RGOs should be included in MS4 permits to justify the requirement.[125] Additional detail to support the inclusion of RGOs can be found in the Fact Sheet discussion of Section D.1.d.2.j.

Finding D.2.e. Industrial sites are significant sources of pollutants in runoff. Pollutant concentrations and loads in runoff from industrial sites are similar or exceed pollutant concentrations and loads in runoff from other land uses, such as commercial or residential land uses. As with other land uses, LID site design, source control, and treatment control BMPs are needed at industrial sites in order to meet the MEP standard. These BMPs are necessary where the industrial site is larger than 10,000 square feet. The 10,000 square feet threshold is appropriate, since it is consistent with requirements in other Phase I NPDES storm water regulations throughout California.

[125] State Board, 2000. Order WQ 2000-11. In the Matter of the Petitions of The Cities Of Bellflower, Et Al., The City Of Arcadia, And Western States Petroleum Association Review of January 26, 2000 Action of the Regional Board And Actions and Failures to Act by both the California Regional Water Quality Control Board, Los Angeles Region and Its Executive Officer Pursuant to Order No. 96-054, Permit for Municipal Storm Water and Urban Run-Off Discharges Within Los Angeles County [NPDES NO. CAS614001] SWRCB/OCC FILES A-1280, A-1280(a) and A-1280(b)

Discussion of Finding D.2.e. Industrial sites can be a significant source of pollutants in storm water runoff. In an extensive review of storm water literature, the LARWQCB found widespread support for the finding that "industrial and commercial activities can also be considered hot spots as sources of pollutants." It also found that "industrial and commercial areas were likely to be the most significant pollutant source areas" of heavy metals.[126] Likewise, storm water runoff from heavy industry in the Santa Clara Valley has been found to be extremely toxic.[127] These findings are corroborated by USEPA, which states in the preamble to the 1990 Phase I NPDES storm water regulations that "Because storm water from industrial facilities may be a major contributor of pollutants to municipal separate storm sewer systems, municipalities are obligated to develop controls for storm water discharges associated with industrial activity through their system in their storm water management program." Since heavy industrial sites can be a significant source of pollutants in runoff in a manner similar to other SSMP project categories such as commercial development or automotive repair shops, it is appropriate to include heavy industrial sites as a SSMP category in the Order.

The Phase I NPDES storm water regulations require the Copermittees to "control through ordinance, permit, contract, order, or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity" (40 CFR 122.26(d)(2)(i)). In addition, it has been established that the MEP standard for the control of storm water runoff from new development projects includes incorporation of the SSMP requirements. Since the Copermittees must both control storm water pollutants from industrial sites and meet the storm water MEP standard for new development, it is appropriate to apply the SSMP requirements to heavy industrial sites.

The State Board's Order WQ 2000-11 indicates that it is appropriate to apply SSMP requirements to categories of development where evidence shows the category of development can be a significant source of pollutants. As evidenced above, heavy industrial sites can be a significant source of pollutants. Therefore, the Order includes heavy industrial sites as a SSMP Priority Development Project category.

[126] Los Angeles Regional Water Quality Control Board. 2001.
[127] Schueler and Holland, 2000. Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66). The Practice of Watershed Protection.

Finding D.2.f. If not properly designed or maintained, certain BMPs implemented or required by municipalities for runoff management may create a habitat for vectors (e.g. mosquitoes and rodents). However, proper BMP design and maintenance to avoid standing water can prevent the creation of vector habitat. Nuisances and public health impacts resulting from vector breeding can be prevented with close collaboration and cooperative effort between municipalities, the Orange County Vector Control District, and the California Department of Public Health during the development and implementation of runoff management programs.

Discussion of Finding D.2.f. The implementation of certain structural BMPs or other runoff treatment systems can result in significant vector problems in the form of increased breeding or harborage habitat for mosquitoes, rodents or other potentially disease transmitting organisms. The implementation of BMPs that retain water may provide breeding habitat for a variety of mosquito species, some of which have the potential to transmit diseases such as Western Equine Encephalitis, St. Louis Encephalomyelitis, and malaria. Recent BMP implementation studies by Caltrans[128] in District 7 and District 11 have demonstrated mosquito breeding associated with some types of BMPs. The Caltrans BMP Retrofit Pilot study cited lack of maintenance and improper design as factors contributing to mosquito production. However, a Watershed Protection Techniques article describes management techniques for selecting, designing, and maintaining structural treatment BMPs to minimize mosquito production.[129] State and local runoff management programs that include structural BMPs with the potential to retain water have been implemented in Florida and the Chesapeake Bay region without resulting in significant public health threats from mosquitoes or other vectors.[130]

Finding D.2.g. The increased volume, velocity, frequency and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion, impair stream habitat in natural drainages, and negatively impact beneficial uses. Development and urbanization increase pollutant loads in storm water runoff and the volume of storm water runoff. Impervious surfaces can neither absorb water nor remove pollutants and thus lose the purification and infiltration provided by natural vegetated soil. Hydromodification measures for discharges to hardened channels allow for the future restoration of the hardened channels to their natural state, thereby restoring the chemical, physical, and biological integrity and Beneficial Uses of local receiving waters.

[128] Caltrans, 2000. BMP Retrofit Pilot Studies: A Preliminary Assessment of Vector Production.
[129] Watershed Protection Techniques, 1995. Mosquitoes in Constructed Wetlands: A Management Bugaboo? 1(4):203-207.
[130] Shaver, E. and R. Baldwin , 1995. Sand Filter Design for Water Quality Treatment in Herricks, E., Ed. Stormwater Runoff and Receiving Systems: Impact, Monitoring, and Assessment, CRC Lewis Publishers, New York, NY.

Discussion of Finding D.2.g. Increasing the volume, velocity, frequency and discharge duration of storm water runoff from developed areas will eventually greatly accelerate downstream erosion, impair stream habitat in natural drainages, and negatively impact beneficial uses. Development and urbanization increase pollutant loads and volume while simultaneously increasing impervious area. Impervious surfaces can neither absorb water nor remove pollutants and thus lose the purification and infiltration provided by naturally vegetated soil.

Historic hydromodification impacts, such as concrete lining and channelization, have impacted the natural physical habitat of urban streams resulting in low Index of Biotic Integrity (IBI) scores. The Copermittee's 2006-2007 monitoring indicated decreased IBI scores in the developed watersheds. In the absence of water chemistry and toxicity impacts, these low scores were attributed to be a result of poor physical habitat conditions.[131]

Hydromodification impacts result in poor physical habitat conditions through streambed scour, erosion, vegetation displacement, sediment deposition, channelization and channel modifications. Increased sediment loads from hydromodification causes other impacts to physical habitats including increased turbidity which then may cause increased temperatures. In addition, an increased sediment load may have an increased biological content thereby increasing the sediment oxygen demand and lowering the dissolved oxygen available for aquatic life.[132]

The objective of the CWA is "to restore and maintain the chemical, *physical,* and biological integrity of the Nation's waters (emphasis added)." Stream restoration by removing concrete and other unnatural materials is a major step toward achieving that objective. The success of future stream restoration and stabilization is, however, dependent on preventing and reducing physical impacts from activities upstream. Therefore, hydromodification management measures are necessary upstream of modified (e.g. concrete, rip rap, etc.) channels in addition to non-modified channels.

Please see discussion of Findings C.10 and C.11.

[131] Orange County Copermittees, November 15, 2007. 2006-2007 Unified Annual Progress Report Program Effectiveness Assessment (San Diego Region).
[132] USEPA, National Management Measures to Control Nonpoint Source Pollution from Hydromodification, EPA 841-B-07-002, July 2007.

Finding D.3.a. In accordance with federal NPDES regulations and to ensure the most effective oversight of industrial and construction site discharges, discharges of runoff from industrial and construction sites are subject to dual (state and local) storm water regulation. Under this dual system, each Copermittee is responsible for enforcing its local permits, plans, and ordinances, and the Regional Board is responsible for enforcing the General Construction Activities Storm Water Permit, State Board Order 99-08 DWQ, NPDES No. CAS000002 (General Construction Permit) and the General Industrial Activities Storm Water Permit, State Board Order 97-03 DWQ, NPDES No. CAS000001 (General Industrial Permit). NPDES municipal regulations require that municipalities develop and implement measures to address runoff from industrial and construction activities. Those measures may require the implementation of additional BMPs than are required under the statewide general permits for activities subject to both state and local regulation.

Discussion of Finding D.3.a. USEPA finds the control of pollutant discharges from industry and construction so important to receiving water quality that it has established a double system of regulation over industrial and construction sites. This double system of regulation consists of two parallel regulatory systems with the same common objective: to keep pollutants from industrial and construction sites out of the MS4. In this double system of regulation for runoff from industrial and construction sites, local governments must enforce their legal authorities (i.e., local ordinances and permits) while the Regional Board must enforce its legal authority (i.e., statewide general industrial and construction storm water permits). These two regulatory systems are designed to complement and support each other. Municipalities are not required to enforce Regional Board and State Board permits; however, they are required to enforce their ordinances and permits. The Federal regulations are clear that municipalities have responsibility to prevent non-storm water and address storm water runoff from industrial and construction sites which enters their MS4s.

Municipalities have this responsibility because they have the authority to issue land use and development permits. Since municipalities are the lead permitting authority for industrial land use and construction activities, they are also the lead for enforcement regarding runoff discharges from these sites. For sites where the municipality is the lead permitting authority, the Regional Board will work with the municipality and provide support where needed. The Regional Board will assist municipalities in enforcement against non-compliant sites after the municipality has exhibited a good faith effort to bring the site into compliance.

According to USEPA, the storm water regulations envision that NPDES permitting authorities and municipal operators will cooperate to develop programs to monitor and control pollutants in storm water discharges from industrial facilities.[133] USEPA discusses the "dual regulation" of construction sites in its Storm Water Phase II Compliance Assistance Guide, which states "Even though all construction sites that disturb more than one acre are covered nationally by an NPDES storm water permit, the construction site runoff control minimum measure […] is needed to induce more localized site regulation and enforcement efforts, and to enable operators […] to more effectively control construction site discharges into their MS4s."[134] While the Storm Water Phase II Compliance Assistance Guide applies to small municipalities, it is applicable to the Copermittees, because they are similar in size and have the potential to discharge similar pollutant types as Phase II municipalities.

Finding D.3.b. Identification of sources of pollutants in runoff (such as municipal areas and activities, industrial and commercial sites/sources, construction sites, and residential areas), development and implementation of BMPs to address those sources, and updating ordinances and approval processes are necessary for the Copermittees to ensure that discharges of pollutants from its MS4 in storm water are reduced to the MEP and that non-storm water discharges are not occurring. Inspections and other compliance verification methods are needed to ensure minimum BMPs are implemented. Inspections are especially important at high risk areas for pollutant discharges.

Discussion of Finding D.3.b. Source identification is necessary to characterize the nature and extent of pollutants in discharges and to develop appropriate BMPs. It is the first step in a targeted approach to runoff management. Source identification helps identify the location of potential sources of pollutants in runoff. Pollutants found to be present in receiving waters can then be traced to the sites which frequently generate such pollutants. In this manner source inventories can help to target inspections, monitoring, and potential enforcement. This allows for limited inspection, monitoring, and enforcement time to be most effective. USEPA supports source identification as a concept when it recommends construction, municipal, and industrial source identification in guidance and the federal regulations.[135,136]

[133] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.
[134] USEPA, 2000. Storm Water Phase II Compliance Assistance Guide. EPA 833-R-00-002.
[135] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.
[136] 40 CFR 122.26(d)(2)(ii)

The development of BMPs for identified sources will help ensure that appropriate, consistent controls are implemented at all types of development and areas. Copermittees must reduce the discharge of pollutants in storm water runoff to the maximum extent practicable. To achieve this level of pollutant reduction, BMPs must be implemented. Designation of minimum BMPs helps ensure that appropriate BMPs are implemented for various sources. These minimum BMPs also serve as guidance as to the level of water quality protection required. USEPA requires development and implementation of BMPs for construction, municipal, commercial, industrial, and residential sources at 40 CFR 122.26(d)(2)(iv)(A-D).

Updating ordinances and approval processes is necessary in order for the Copermittees to control discharges to their MS4s. USEPA supports updating ordinances and approval processes when it states "A crucial requirement of the NPDES storm water regulation is that a municipality must demonstrate that it has adequate legal authority to control the contribution of pollutants in storm water discharged to its MS4. […] In order to have an effective municipal storm water management program, a municipality must have adequate legal authority to control the contribution of pollutants to the MS4. […] 'Control,' in this context, means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4."[137]

Inspections provide a necessary means for the Copermittees to evaluate compliance of pollutant sources with their municipal ordinances and minimum BMP requirements. USEPA supports inspections when it recommends inspections of construction, municipal, and industrial sources.[138] Inspection of high risk sources are especially important because of the ability of frequent inspections to help ensure compliance, thereby reducing the risk associated with such sources. USEPA suggests that inspections can improve compliance when it states "Effective inspection and enforcement requires […] penalties to deter infractions and intervention by the municipal authority to correct violations."[139]

Finding D.3.c. Historic and current development makes use of natural drainage patterns and features as conveyances for runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, anthropogenic, or partially modified features. In these cases, the urban stream is both an MS4 and receiving water.

[137] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.
[138] Ibid.
[139] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.

Discussion of Finding D.3.c. An MS4 is defined in the federal regulations as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by a Copermittee, and designed or used for collecting or conveying runoff.[140] Natural drainage patterns and urban streams are frequently used by municipalities to collect and convey runoff away from development within their jurisdiction. Therefore, the Regional Board considers natural drainages that are used for conveyances of runoff, regardless of whether or not they've been altered by the municipality, as both part of the MS4s and as receiving waters. To clarify, an unaltered natural drainage, which receives runoff from a point source (channeled by a Copermittee to drain an area within their jurisdiction), which then conveys the runoff to an altered natural drainage or a man-made MS4, is both an MS4 and a receiving water.[141]

Finding D.3.d. As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.

[140] USEPA, 2000. EPA Administered Permit Programs: The National Pollutant Discharge Elimination System. Code of Federal Regulations, Vol. 40, Part 122.
[141] Regional Board, 2001. Response in Opposition to Petitions for Review of California Regional Water Quality Control Board San Diego Region Order No. 2001-01 – NPDES Permit No. CAS0108758 (San Diego Municipal Storm Water Permit).

Discussion of Finding D.3.d. CWA section 402(p) requires operators of MS4s to prohibit non-storm water discharges into their MS4s. This is necessary because pollutants which enter the MS4 generally are conveyed through the MS4 to be eventually discharged into receiving waters. If a municipality does not prohibit non-storm water discharges, it is providing the pathway (its MS4) which enables pollutants to reach receiving waters. Since the municipality's storm water management service can result in pollutant discharges to receiving waters, the municipality must accept responsibility for the water quality consequences resulting from this service. Furthermore, third party discharges can cause a municipality to be out of compliance with its permit. Since pollutants from third parties which enter the MS4 will eventually be discharged from the MS4 to receiving waters, the third party discharges can result in a situation of municipality non-compliance if the discharges lead to an exceedance of water quality standards. For these reasons, each Copermittee must prohibit and/or control discharges from third parties to its MS4. USEPA supports this concept when it states "the operators of regulated small MS4s cannot passively receive and discharge pollutants from third parties" and "the operator of a small MS4 that does not prohibit and/or control discharges into its system essentially accepts 'title' for those discharges. At a minimum, by providing free and open access to the MS4s that convey discharges to the waters of the United States, the municipal storm sewer system enables water quality impairment by third parties."[142]

Finding D.3.e. Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed. These discharges may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. For this reason, pollutant discharges from storm water into MS4s must be reduced using a combination of management measures, including source control, and an effective MS4 maintenance program must be implemented by each Copermittee.

Discussion of Finding D.3.e. When rain falls and drains freeways, industries, construction sites, and neighborhoods, it picks up a multitude of pollutants. Gravity flow transports the pollutants to the MS4. Illicit discharges and connections also can contribute a significant amount of pollutants to MS4s. MS4s are commonly designed to convey their contents as quickly as possible. Due to the resulting typically high flow rates within the concrete conveyance systems of MS4s, pollutants which enter or are deposited in the MS4 and not removed are generally flushed unimpeded through the MS4 to waters of the United States. Since treatment generally does not occur within the MS4, in such cases reduction of storm water pollutants to the MEP must occur prior to discharges entering the MS4.

[142] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68765-68766.

The importance of this concept is supported by the tons of wastes/pollutants that have been removed from the Copermittees' MS4s as reported in their ROWD.[143] Moreover, these pollutants will be discharged into receiving waters unless an effective MS4 and structural treatment BMP maintenance program is implemented by the Copermittees. The requirement for Copermittees to conduct a MS4 maintenance program is specifically directed in both the Phase I and Phase II storm water regulations. Regarding MS4 cleaning, USEPA states "The removal of sediment, decaying debris, and highly polluted water from catch basins has aesthetic and water quality benefits, including reducing foul odors, reducing suspended solids, and reducing the load of oxygen-demanding substances that reach receiving waters."[144] It goes on to say, "Catch basin cleaning is an efficient and cost-effective method for preventing the transport of sediment and pollutants to receiving water bodies." USEPA also finds that "Lack of maintenance often limits the effectiveness of storm water structural controls such as detention/retention basins and infiltration devices. […] The proposed program should provide for maintenance logs and identify specific maintenance activities for each class of control, such as removing sediment from retention ponds every five years, cleaning catch basins annually, and removing litter from channels twice a year."[145]

Finding D.3.f. Enforcement of local runoff related ordinances, permits, and plans is an essential component of every runoff management program and is specifically required in the federal storm water regulations and this Order. Each Copermittee is individually responsible for adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent or reduce pollutants in storm water runoff, and for the allocation of funds for the capital, operation and maintenance, administrative, and enforcement expenditures necessary to implement and enforce such control measures/BMPs under its jurisdiction. Education is an important aspect of every effective runoff management program and the basis for changes in behavior at a societal level. Education of municipal planning, inspection, and maintenance department staffs is especially critical to ensure that in-house staffs understand how their activities impact water quality, how to accomplish their jobs while protecting water quality, and their specific roles and responsibilities for compliance with this Order. Public education, designed to target various urban land users and other audiences, is also essential to inform the public of how individual actions affect receiving water quality and how adverse effects can be minimized.

[143] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region).
[144] USEPA, 1999. Storm Water O&M Fact Sheet, Catch Basin Cleaning. EPA 832-F-99-011.
[145] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.

Discussion of Finding D.3.f. The Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A – D) are clear in placing responsibility on municipalities for control of runoff from third party activities and land uses to their MS4.[146] In order for municipalities to assume this responsibility, they must implement ordinances, permits, and plans addressing runoff from third parties. Assessments for compliance with their ordinances, permits, and plans are essential for a municipality to ensure that third parties are not causing the municipality to be in violation of its municipal storm water permit. When conditions of non-compliance are determined, enforcement is necessary to ensure that violations of municipality ordinances and permits are corrected. When the Copermittees determine a violation of its storm water ordinance, it must pursue correction of the violation. Without enforcement, third parties do not have incentive to correct violations. USEPA supports enforcement by municipalities when it states "Effective inspection and enforcement requires […] penalties to deter infractions and intervention by the municipal authority to correct violations. Enforcement mechanisms […] also must be described."[147]

Education is a critical BMP and an important aspect of runoff management programs. USEPA finds that "An informed and knowledgeable community is critical to the success of a storm water management program since it helps ensure the following: Greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, [and] greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."[148]

Regarding target audiences, USEPA also states "The public education program should use a mix of appropriate local strategies to address the viewpoints and concerns of a variety of audiences and communities, including minority and disadvantaged communities, as well as children."

Finding D.3.g. Public participation during the development of runoff management programs is necessary to ensure that all stakeholder interests and a variety of creative solutions are considered.

Discussion of Finding D.3.g.
This finding is supported by the Phase II Storm Water Regulations, which state "early and frequent public involvement can shorten implementation schedules and broaden public support for a program." USEPA goes on to explain, "Public participation is likely to ensure a more successful storm water program by providing valuable expertise and a conduit to other programs and governments."[149]

---

[146] USEPA, 2000. EPA Administered Permit Programs: The National Pollutant Discharge Elimination System. Code of Federal Regulations, Vol. 40, Part 122.
[147] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA/833-B-92-002.
[148] USEPA, 2000. Storm Water Phase II Compliance Assistance Guide. EPA 833-R-00-002.
[149] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68755.

Finding D.3.h. Retrofitting existing development with storm water treatment controls including LID, is necessary to address storm water discharges from existing development that may cause or contribute to a condition of pollution or a violation of water quality standards. Although SSMP BMPs are required for redevelopment, the current rate of redevelopment will not address water quality problems in a timely manner. Cooperation with private landowners is necessary to effectively identify, implement and maintain retrofit projects for the preservation, restoration, and enhancement of water quality.

Discussion of Finding D.3.h. Existing BMPs are not sufficient to protect the Beneficial Uses of receiving waters from storm water MS4 discharges, as evidenced by 303(d) listings and exceedances of Water Quality Objectives from the Copermittees monitoring reports. Implementing more advanced BMPs, including the retrofitting of existing development with LID, is part of the iterative process. Based on the current rate of redevelopment compared to existing BMPs, the use of LID only on new and redevelopment will not adequately address current water quality problems, including downstream hydromodification. Retrofitting existing development is practicable for a municipality through a systematic evaluation, prioritization and implementation plan focused on impaired water bodies, pollutants of concern, areas of downstream hydromodification, feasibility and effective communication and cooperation with private property owners.

Finding D.4.a. Since runoff within a watershed can flow from and through multiple land uses and political jurisdictions, watershed-based runoff management can greatly enhance the protection of receiving waters. Such management provides a means to focus on the most important water quality problems in each watershed. By focusing on the most important water quality problems, watershed efforts can maximize protection of beneficial use in an efficient manner. Effective watershed-based runoff management actively reduces pollutant discharges and abates pollutant sources causing or contributing to watershed water quality problems. Watershed-based runoff management that does not actively reduce pollutant discharges and abate pollutant sources causing or contributing to watershed water quality problems can necessitate implementation of the iterative process outlined in section A.3 of the Tentative Order. Watershed management of runoff does not require Copermittees to expend resources outside of their jurisdictions. Watershed management requires the Copermittees within a watershed to develop a watershed-based management strategy, which can then be implemented on a jurisdictional basis.

Discussion of Finding D.4.a. In recent years, addressing water quality issues from a watershed perspective has increasingly gained attention. Regarding watershed-based permitting, the USEPA *Watershed-Based NPDES Permitting Policy Statement* issued on Jan. 7, 2004 states the following:

> USEPA continues to support a holistic watershed approach to water quality management. The process for developing and issuing NPDES permits on a watershed basis is an important tool in water quality management. USEPA believes that developing and issuing NPDES permits on a watershed basis can benefit all watershed stakeholders, from the NPDES permitting authority to local community members. A watershed-based approach to point source permitting under the NPDES program may serve as one innovative tool for achieving new efficiencies and environmental results. USEPA believes that watershed-based permitting can:
>
> - Lead to more environmentally effective results;
> - Emphasize measuring the effectiveness of targeted actions on improvements in water quality;
> - Provide greater opportunities for trading and other market based approaches;
> - Reduce the cost of improving the quality of the nation's waters;
> - Foster more effective implementation of watershed plans, including total maximum daily loads (TMDLs); and
> - Realize other ancillary benefits beyond those that have been achieved under the CWA (e.g., facilitate program integration including integration of clean water act and safe drinking water act programs).
>
> Watershed-based permitting is a process that ultimately produces NPDES permits that are issued to point sources on a geographic or watershed basis. In establishing point source controls in a watershed-based permit, the permitting authority may focus on watershed goals, and consider multiple pollutant sources and stressors, including the level of nonpoint source control that is practicable. In general, there are numerous permitting mechanisms that may be used to develop and issue permits within a watershed approach.

This USEPA guidance is in line with State Board and Regional Board watershed management goals. For example, the State Board's TAC recommends watershed-based water quality protection, stating "Municipal permits should have watershed specific components." The TAC further recommends that "All NPDES permits and Waste Discharge Requirements should be considered for reissuance on a watershed basis."

In addition, the Basin Plan states that "public agencies and private organizations concerned with water resources have come to recognize that a comprehensive evaluation of pollutant contributions on a watershed scale is the only way to realistically assess cumulative impacts and formulate workable strategies to truly protect our water resources. Both water pollution and habitat degradation problems can best be solved by following a basin-wide approach."

In light of USEPA's policy statement and the State Board's and Regional Board's watershed management goals, the Regional Board seeks to expand watershed management in the regulation of runoff from the MS4. Watershed-based MS4 permits can provide for more effective receiving water quality protection by focusing on specific water quality problems. The entire watershed for the receiving water can be assessed, allowing for critical areas and practices to be targeted for corrective actions. Known sources of pollutants of concern can be investigated for potential water quality impacts. Problem areas can then be addressed, leading to eventual improvements in receiving water quality. Management of runoff on a watershed basis allows for specific water quality problems to be targeted so that efforts result in maximized water quality improvements.[150]

Finding D.4.b. Some runoff issues, such as general education and training, can be effectively addressed on a regional basis. Regional approaches to runoff management can improve program consistency and promote sharing of resources, which can result in implementation of more efficient programs.

Discussion of Finding D.4.b. Copermittees in Orange County participate in several runoff-related activities whose scope extends beyond the area subject to this Order. These include countywide activities (e.g., portions of Orange County fall under the jurisdiction of the Santa Ana Regional Board), southern California, and statewide activities. Copermittees' participation in these regional activities is generally directed at improving management capability, preventing redundancy and taking advantage of economies of scale. For instance, Copermittees seek to develop consistency between watershed and/or jurisdictional programs (e.g., through standards development), and to collaborate on certain program activities such as education, training, and monitoring. The Copermittees report agreeing that jurisdictional, watershed, and regional programs cannot be effectively developed and implemented in isolation. In addition, the Copermittees, through WRMP implementation efforts, have learned that many watershed activities can be more effectively implemented (e.g., achieve more water quality benefits) at the regional level due to economies of scale and agree watershed protection should be increasingly emphasized as a focal point of Copermittee efforts under the re-issued Permit.[151]

Finding D.4.c. It is important for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies. Copermittee coordination with other watershed stakeholders, especially Caltrans, the Department of Defense, and water and sewer districts, is also important.

[150] Regional Board, 2004. San Diego County Municipal Storm Water Permit Reissuance Analysis Summary. P. 1.

[151] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region).

Discussion of Finding D.4.c. Conventional planning and zoning can be limited in their ability to protect the environmental quality of creeks, rivers, and other waterbodies. Watershed-based planning is often ignored, despite the fact that receiving waters unite land by collecting runoff from throughout the watershed. Since watersheds unite land, they can be used as an effective basis for planning. Watershed-based planning enables local and regional areas to realize economic, social, and other benefits associated with growth, while conserving the resources needed to sustain such growth, including water quality.

This type of planning can involve four steps: (1) Identify the watersheds shared by the participating jurisdictions; (2) Identify, assess, and prioritize the natural, social, and other resources in the watersheds; (3) Prioritize areas for growth, protection, and conservation, based on prioritized resources; and (4) Develop plans and regulations to guide growth and protect resources. Local governments have started with simple, yet effective, steps toward watershed planning, such as adopting a watershed-based planning approach, articulating the basic strategy in their General Plans, and beginning to pursue the basic strategy in collaboration with neighboring local governments who share the watersheds. Examples of new mechanisms created to facilitate watershed-based planning and zoning include the San Francisquito Creek Watershed Coordinated Resource Management Process and the Santa Clara Basin Watershed Management Initiative.[152]

[152] Bay Area Stormwater Management Agencies Association., 1999. Start at the Source. Forbes Custom Publishing. Available on-line at: http://www.scvurppp-w2k.com/basmaa_satsm.htm

E. Statute and Regulatory Considerations

Finding E.1. The Receiving Water Limitations (RWL) language specified in this Order is consistent with language recommended by the USEPA and established in State Board Water Quality Order 99-05, *Own Motion Review of the Petition of Environmental Health Coalition to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740*, adopted by the State Board on June 17, 1999. The RWL in this Order require compliance with water quality standards, which for storm water discharges is to be achieved through an iterative approach requiring the implementation of improved and better-tailored BMPs over time. Compliance with receiving water limitations based on applicable water quality standards is necessary to ensure that MS4 discharges will not cause or contribute to violations of water quality standards and the creation of conditions of pollution.

Discussion of Finding E.1. The RWLs in the Order require storm water compliance with water quality standards through an iterative approach for implementing improved and better-tailored BMPs over time. The iterative BMP process requires the implementation of increasingly stringent BMPs until receiving water standards are achieved. This is necessary because implementation of BMPs alone cannot ensure attainment of receiving water quality standards. For example, a BMP that is effective in one situation may not be applicable in another. An iterative process of BMP development, implementation, and assessment is needed to promote consistent compliance with receiving water quality objectives. If assessment of a given BMP confirms that the BMP is ineffective, the iterative process should be restarted, with redevelopment of a new BMP that is anticipated to result in compliance with receiving water quality objectives.

The issue of whether storm water discharges from MS4s must meet water quality standards has been intensely debated in past years. The argument arises because CWA section 402(p) fails to clearly state that municipal dischargers of storm water must meet water quality standards. On the issue of industrial discharges of storm water, the statute clearly indicates that industrial dischargers must meet both (1) the technology-based standard of “best available technology economically achievable (BAT)” and (2) applicable water quality standards. On the issue of municipal discharges however, the statute states that municipal dischargers must meet (1) the technology-based standard of MEP” and (2) “such other provisions that the Administrator or the State determines appropriate for the control of such pollutants.” The statute fails, however, to specifically state that municipal dischargers must meet water quality standards.

As a result, the municipal storm water dischargers have argued that they do not have to meet water quality standards; and that they only are required to meet MEP for storm water. Environmental interest groups maintain that not only do MS4 discharges have to meet water quality standards, but that MS4 permits must also comply with numeric effluent limitations for the purpose of meeting water quality standards. On the issue of water quality standards, USEPA, the State Board, and the Regional Board have consistently maintained that MS4s must indeed comply with water quality standards. On the issue of whether water quality standards must be met by numeric effluent limitations, USEPA, the State Board (in Orders WQ 91-03 and WQ 91-04), and the Regional Board have maintained that MS4 permits can contain narrative requirements for the implementation of BMPs in place of numeric effluent limitations for storm water discharges.[153]

In addition to relying on USEPA's legal opinion concluding that MS4s must meet MEP for storm water and water quality standards, the State Board also relied on the CWA's explicit authority for States to require "such other provisions that the Administrator or the State determines appropriate for the control of such pollutants" in addition to the technology-based standard of MEP for storm water discharges. To further support its conclusions that MS4 permit dischargers must meet water quality standards, the State Board relied on provisions of the CWC that specify that all waste discharge requirements must implement applicable Basin Plans and take into consideration the appropriate water quality objectives for the protection of beneficial uses.

The State Board first formally concluded that permits for MS4s must contain effluent limitations based on water quality standards in its Order WQ 91-03. In that Order, the State Board also concluded that it was appropriate for Regional Boards to achieve this result by requiring best management practices, rather than by inserting numeric effluent limitations into MS4 permits. Later, in Order WQ 98-01, the State Board prescribed specific precedent setting Receiving Water Limitations language to be included in all future MS4 permits. This language specifically requires that MS4 dischargers meet water quality standards and allows for the use of narrative BMPs (increasing in stringency and implemented in an iterative process) as the mechanism by which water quality standards can be met for storm water discharges.

In Order WQ 99-05, the State Board modified its receiving water limitations language in Order WQ 98-01 to meet specific objections by USEPA (the modifications resulted in stricter compliance with water quality standards). State Board Order WQ 99-05 states:

[153] For the most recent assessment, see Storm Water Panel Recommendations to the California State Water Resources Control Board, 2006. *The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities.*

> "In Order WQ 98-01, the State Board ordered that certain receiving water limitation language be included in future municipal storm water permits. Following inclusion of that language in permits issued by the San Francisco Bay and San Diego Regional Boards for Vallejo and Riverside respectively, the USEPA objected to the permits. The USEPA objection was based on the receiving water limitation language. The USEPA has now issued those permits itself and has included receiving water limitation language it deems appropriate.
>
> In light of USEPA's objection to the receiving water limitation language in Order WQ 98-01 and its adoption of alternative language, the State Board is revising its instructions regarding receiving water limitation language for municipal storm water permits. It is hereby ordered that Order WQ 98-01 will be amended to remove the receiving water limitation language contained therein and to substitute the USEPA language. Based on the reasons stated here, and as a precedent decision, the following receiving water limitation language shall be included in future municipal storm water permits."

In the 1999 case involving MS4 permits issued by USEPA to several Arizona cities (*Defenders of Wildlife v. Browner*, 1999, 197 F. 3d 1035), the United States Court of Appeals for the Ninth Circuit upheld USEPA's requirement for MS4 dischargers to meet water quality standards, but it did so on the basis of USEPA's discretion rather than on the basis of strict compliance with the Clean Water Act. In other words, while holding that the Clean Water Act does not require all MS4 discharges to comply strictly with state water quality standards, the Court also held that USEPA has the authority to determine that ensuring strict compliance with state water quality standards is necessary to control pollutants. On the question of whether MS4 permits must contain numeric effluent limitations, the court upheld USEPA's use of iterative BMPs in place of numeric effluent limitations for storm water discharges.

On October 14, 1999, the State Board issued a legal opinion on the federal appellate decision and provided advice to the Regional Boards on how to proceed in the future. In the memorandum, the State Board concludes that the recent Ninth Circuit opinion upholds the discretion of USEPA and the State to (continue to) issue storm water permits to MS4s that require compliance with water quality standards through iterative BMPs. Moreover, the memorandum states that "[…] because most MS4 discharges enter impaired water bodies, there is a real need for permits to include stringent requirements to protect those water bodies. As TMDLs are developed, it is likely that MS4s will have to participate in pollutant load reductions, and the MS4 permits are the most effective vehicles for those reductions." In summary, the State Board found that the Regional Boards should continue to include the RWL established in State Board Order WQ 99-05 in all future permits.

The issue of the RWLs language was also central to BIA's (and others') appeal of Order No. 2001-01 (San Diego MS4 permit), which was used as a template for Order No. R9-2002-01. BIA contended that the storm water MEP standard was a ceiling on what could be required of the Copermittees in implementing their runoff management programs, and that Order No. 2001-01's receiving water limitations requirements exceeded that ceiling. In other words, BIA argued that the Copermittees could not be required to comply with receiving water limitations if they necessitated efforts which went beyond the MEP standard. Again, the courts upheld the Regional Board's discretion to require compliance with water quality standards in municipal storm water permits, without limitation. The Court of Appeal, Fourth Appellate District found that the Regional Board has "the authority to include a permit provision requiring compliance with water quality standards."[154] On further appeal by BIA, the California State Supreme Court declined to hear the matter.

While implementation of the iterative BMP process is a means to achieve compliance with water quality objectives for storm water MS4 discharges, it does not shield the discharger from enforcement actions for continued non-compliance with water quality standards. Consistent with USEPA guidance,[155] regardless of whether or not an iterative process is being implemented, discharges that cause or contribute to a violation of water quality standards are in violation of Order No. R9-2008-0001.

Finding E.2. The Water Quality Control Plan for the San Diego Basin (Basin Plan), identifies the following beneficial uses for surface waters in Orange County: Municipal and Domestic Supply (MUN)[156], Agricultural Supply (AGR), Industrial Process Supply (PROC), Industrial Service Supply (IND), Ground Water Recharge (GWR), Contact Water Recreation (REC1) Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Freshwater Replenishment (FRSH), Hydropower Generation (POW), and Preservation of Biological Habitats of Special Significance (BIOL). The following additional beneficial uses are identified for coastal waters of Orange County: Navigation (NAV), Commercial and Sport Fishing (COMM), Estuarine Habitat (EST), Marine Habitat (MAR), Aquaculture (AQUA), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), and Shellfish Harvesting (SHELL).

[154] Building Industry Association et al., v. State Water Resources Control Board, et al. 2004.
[155] USEPA, 1998. Jan. 21, 1998 correspondence, "State Board/OCC File A-1041 for Orange County," from Alexis Strauss to Walt Petit, and March 17, 1998 correspondence from Alexis Strauss to Walt Petit.
[156] Subject to exceptions under the "Sources of Drinking Waters" Policy (Resolution No. 89-33)

Administrative Record Page No. 025380

Discussion of Finding E.2. The southern portion of Orange County is within the San Diego Region. The Orange County portion of the San Diego Region falls within and comprises the majority of the San Juan Hydrologic Unit. Major streams within the Orange County watersheds include San Juan Creek, Trabuco Creek, and San Mateo Creek. Other surface water bodies include Aliso Creek, Prima Deshecha Canada, Segunda Deshecha Canada, Oso Creek, Salt Creek, Laguna Canyon Channel, Canada Gobernadora, and Bell Canyon. Several small canyon streams drain directly to the Ocean. Major inland waterbodies include Oso Reservoir, El Toro Reservoir, and Sulphur Creek Reservoir.

The Orange County watersheds include unincorporated portions of Orange County, the Cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano. The uppermost portions of the San Mateo, San Juan, Trabuco, and Aliso Creek watersheds are within the Cleveland National Forests.

Approximately 500,000 people reside within the permitted area. This estimate is based on the 2000 census, which does not represent exact numbers because three municipalities (County of Orange and the Cities of Laguna Hills and Lake Forest) lie within both the San Diego Region and the Santa Ana Region. In addition, new developments have increased the housing stock of the area since the 2000 census. This includes the master planned developments of Ladera Ranch in the San Juan Creek watershed and Talega in the San Clemente Coastal and San Mateo Creek watersheds.

Finding E.3. This Order is in conformance with State Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*, and the federal Antidegradation Policy described in 40 CFR 131.12.

Discussion of Finding E.3. Runoff management programs are required to be designed to reduce pollutants in storm water MS4 discharges to the maximum extent practicable and achieve compliance with water quality standards. Therefore, implementation of runoff management programs, which satisfy the requirements of Order No. R9-2009-0002, will prevent violations of receiving water quality standards. The Basin Plan states that “Water quality objectives must […] conform to US EPA regulations covering antidegradation (40 CFR 131.12) and State Board Resolution 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters in California.” As a result, when water quality standards are met, USEPA and State Board antidegradation policy requirements are also met.

Finding E.4. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The adoption and implementation of this NPDES permit relieves the Permittee from developing a non-point source plan, for the urban category, under CZARA. The Regional Board addresses septic systems through the administration of other programs.

Discussion of Finding E.4. Coastal states are required to develop programs to protect coastal waters from nonpoint source pollution, as mandated by the federal CZARA. CZARA Section 6217 identifies polluted runoff as a significant factor in coastal water degradation, and requires implementation of management measures and enforceable policies to restore and protect coastal waters. In lieu of developing a separate NPS program for the coastal zone, California's NPS Pollution Control Program was updated in 2000 to address the requirements of both the CWA section 319 and the CZARA section 6217 on a statewide basis. The California Coastal Commission (CCC), the State Board, and the nine Regional Water Quality Control Boards are the lead State agencies for upgrading the program, although 20 other State agencies also participate. Pursuant to the CZARA (6217(g) Guidance Document the development of runoff management programs pursuant to this NPDES permit fulfills the need for coastal cities to develop an runoff non-point source plan identified in the State's Non-point Source Program Strategy and Implementation Plan.[157]

Finding E.5. Section 303(d)(1)(A) of the CWA requires that "Each state shall identify those waters within its boundaries for which the effluent limitations…are not stringent enough to implement any water quality standard (WQS) applicable to such waters." The CWA also requires states to establish a priority ranking of impaired waterbodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired waterbodies is called the Section 303(d) List. The current Section 303(d) List was approved by the State Board on February 4, 2003 and on July 25, 2003 by USEPA. The List was recently updated by the State Board on October 25, 2006. On June 28, 2007 the 2006 303(d) list for California was given final approval by the United States Environmental Protection Agency (USEPA).

[157] State Board/CCC, 2000. Nonpoint Source Program Strategy and Implementation Plan, 1998-2013 (PROSIP).

Discussion of Finding E.5. Section 303(d) of the federal CWA (CWA, 33 USC 1250, et seq., at 1313(d)), requires States to identify waters that do not meet water quality standards after applying certain required technology-based effluent limits ("impaired" water bodies). States are required to compile this information in a list and submit the list to USEPA for review and approval. This list is known as the Section 303(d) list of impaired waters. As part of this listing process, States are required to prioritize waters/watersheds for future development of TMDLs. The State Board and Regional Boards have ongoing efforts to monitor and assess water quality, to prepare the Section 303(d) list, to prioritize waters/watersheds for TMDL development and to subsequently develop TMDLs. TMDLs developed and adopted by the Regional Board are incorporated into the Basin Plan via a Basin Plan Amendment as authorized under section 13240 of the California Water Code. The 2006 California 303(d) List identifies impaired receiving water bodies and their watersheds within the State of California. Storm water and non-storm water runoff that is discharged from the Copermittees' MS4s is a leading cause of receiving water quality impairment in the San Diego Region.[158] TMDLs Project I and II for bacteria are considered priority development TMDLs due to impacts to REC 1 benefits due to impairment of waters for human contact recreation.

Finding E.6. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIIIB, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. First, this Order implements federally mandated requirements under federal Clean Water Act section 402. (33 U.S.C. § 1342(p)(3)(B).) Second, the local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental and new dischargers who are issued NPDES permits for storm water and non-storm water discharges. Third, the local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. Fourth, the Copermittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their storm water discharges. Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under State law predates the enactment of Article XIIIB, Section (6) of the California Constitution. Likewise, the provisions of this Order to implement total maximum daily loads (TMDLs) are federal mandates. The federal Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. sec. 1313(d).) Once the U.S. Environmental Protection Agency or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 C.F.R. sec. 122.44(d)(1)(vii)(B).)

[158] The approved 2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments is on-line at: http://www.waterboards.ca.gov/tmdl/303d_lists2006.html.

Discussion of Finding E.6. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIIIB, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. First, this Order implements federally mandated requirements under federal Clean Water Act section 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants in storm water to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.)

The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389; Building Industry Ass'n of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 882-883.)

Second, the local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C. § 1342) and the Porter-Cologne regulates the discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), Defenders of Wildlife v. Browner (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (See, e.g., Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (County of Fresno v. State of California (1991) 53 Cal.3d 482, 487-488.)

Fourth, the Copermittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their storm water discharges. To the extent, the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (Accord County of San Diego v. State of California (1997) 15 Cal.4th 68, 107-108.) Likewise, the Copermittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limitations approach on their storm water discharge. (See City of Abilene v. U.S. E.P.A. (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric limitations].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See Environmental Defense Center v. USEPA (9th Cir. 2003) 344 F.3d 832, 845-848.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIIIB, Section (6) of the California Constitution.

Finding E. 7. Runoff treatment and/or mitigation must occur prior to the discharge of runoff into receiving waters. Treatment BMPs must not be constructed in waters of the U.S. or State unless the runoff flows are sufficiently pretreated to protect the values and functions of the water body. Federal regulations at 40 CFR 131.10(a) state that in no case shall a state adopt waste transport or waste assimilation as a designated use for any waters of the U.S. Authorizing the construction of an runoff treatment facility within a water of the U.S., or using the water body itself as a treatment system or for conveyance to a treatment system, would be tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body. Without federal authorization (e.g., pursuant to Clean Water Act Section 404), waters of the U.S. may not be converted into, or used as, waste treatment or conveyance facilities. Similarly, waste discharge requirements pursuant to California Water Code Section 13260 are required for the conversion or use of waters of the State as waste treatment or conveyance facilities. Diversion from waters of the U.S./State to treatment facilities and subsequent return to waters of the U.S. is allowable, provided that the effluent complies with applicable NPDES requirements.

Discussion of Finding E.7. Runoff treatment and/or mitigation in accordance with any of the requirements in the Order must occur prior to the discharge of storm water into receiving waters. Allowing storm water polluted runoff to enter receiving waters prior to treatment to the MEP will result in degradation of the water body and potential exceedances of water quality standards, from the discharge point to the point of dissipation, infiltration, or treatment. Furthermore, the construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body. This requirement is supported by federal regulation 40 CFR 131.10(a) and USEPA guidance. According to USEPA,[159] "To the extent possible, municipalities should avoid locating structural controls in natural wetlands. Before considering siting of controls in a natural wetland, the municipality should demonstrate that it is not possible or practicable to construct them in sites that do not contain natural wetlands… Practices should be used that settle solids, regulate flow, and remove contaminants prior to discharging storm water into a wetland."

Additional Federal guidance discusses the implementation of wetlands to treat municipal storm water discharges (USEPA, 2000. *Guiding Principles for Constructed Treatment Wetlands: Providing for Water Quality and Wildlife Habitat*). It states:

[159] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.

> *"..treatment wetlands should not be constructed in a waters of the U.S. unless you can sufficiently pretreat the stormwater flows to protect the values and functions of the waters of the U.S. Because storm water is an unpredictable effluent source and can contain high levels of toxic substances, nutrients, and pathogens, we strongly encourage that you construct the treatment wetland in uplands and use best management practices in these projects."*[160]

Consistent with USEPA guidance, the conversion or use of waters of the U.S./State into runoff treatment facilities or conveyance facilities for untreated storm water discharges must be appropriately reviewed by both Federal and State resource agencies. Such projects may be subject to federal permitting pursuant to Clean Water Act Section 404 if discharges of dredged or fill material is involved.

The placement of hydromodification controls within waters of the U.S./State may also be subject to federal and/or state permitting, but would not necessarily be considered a pollutant treatment BMP. Provided the grade control structures are designed to re-establish a natural channel gradient and correct excessive changes to the sediment transport regime caused by urbanization, rather than to create a series of artificial hydrological impoundments for the purpose of treating pollution, this type of project is not considered an in-stream treatment BMP.

Finding E. 8. The issuance of waste discharge requirements and an NPDES permit for the discharge of runoff from MS4s to waters of the U.S. is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with the CWC section 13389.

Discussion of Finding E. 8. CWC Section 13389 exempts the adoption of waste discharge requirements (such as NPDES permits) from CEQA requirements: "Neither the State Board nor the regional boards shall be required to comply with the provisions of Chapter 3 (commencing with section 21100) of Division 13 of the Public Resources Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto."

[160] USEPA, 2000. Guiding Principles for Constructed Treatment Wetlands: Providing for Water Quality and Wildlife Habitat, (EPA 843-B-00-003).

This CEQA exemption was challenged during BIA's (and others') appeal of Order No. 2001-01. BIA contended that the CEQA exemption did not apply to permit requirements where the Regional Board utilized its discretion to craft permit requirements which were more prescriptive than required by federal law. The Court of Appeal, Fourth Appellate District disagreed with this argument, stating "we also reject Building Industry's argument to the extent it contends the statutory CEQA exemption in Water Code section 13389 is inapplicable to a particular NPDES permit provision that is discretionary, rather than mandatory, under the CWA."[161] On further appeal by BIA, the California State Supreme Court declined to hear the matter.

In a recent decision, the Court of Appeal of the State of California, Second Appellate District, upheld the CEQA exemption for municipal storm water NPDES permits (County of Los Angeles, et al. v. California State Water Resources Control Board, et al.).[162]

Finding E.9. Multiple water bodies in Orange County have been identified as impaired and placed on the 303(d) list. In 2004, Bacteria Impaired Waters TMDL Project II included six bacteria impaired shorelines in Dana Point Harbor and San Diego Bay: Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park, B Street, G Street Pier, Tidelands Park, and Chula Vista Marina in San Diego Bay. Since then, only Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay can be confirmed as still impaired by indicator bacteria. On June 11, 2008 the Regional Board adopted a Basin Plan amendment to incorporate *Bacteria Impaired Waters TMDL Project II for San Diego Bay and Dana Point Harbor Shorelines*. On June 16, 2009, the State Board approved the Basin Plan amendment. This action meets requirements of section 303(d) of the Clean Water Act (CWA). The Basin Plan amendment process is authorized under section 13240 of the Water Code. The State's Office of Administrative Law (OAL) approved the TMDLs on September 15, 2009. The effective date of the TMDLs is the date of OAL approval. USEPA approved the TMDLs on October 26, 2009.

Finding E.10. Storm water discharges from developed and developing areas in Orange County are significant sources of certain pollutants that cause, may be causing, threatening to cause or contributing to water quality impairment in the waters of Orange County. Furthermore, as delineated in the CWA section 303(d) list in Table 3, the Regional Board has found that there is a reasonable potential that municipal storm water and non-storm water discharges from MS4s cause or may cause or contribute to an excursion above water quality standards for the following pollutants: Indicator Bacteria, Phosphorous, Toxicity and Turbidity. In accordance with CWA section 303(d), the Regional Board is required to establish Total Maximum Daily Loads (TMDLs) for these pollutants to these waters to eliminate impairment and attain water quality standards. Therefore, certain early pollutant control actions and further pollutant impact assessments by the Copermittees are warranted and required

[161] Building Industry Association et al., v. State Water Resources Control Board, et al. 2004.
[162] Los Angeles County Super. Ct. No. BS080792. Partial publication dated November 6, 2006.

pursuant to this Order.

Finding E.11. This Order incorporates only those MS4 Waste Load Allocations (WLAs) developed in TMDLs that have been adopted by the Regional Water Board and have been approved by the State Board, Office of Administrative Law and U.S. EPA. Approved TMDL WLAs are to be addressed using water quality-based effluent limitations (WQBELs) calculated as numeric limitations (either in the receiving waters and/or at the point of MS4 discharge) and/or as BMPs. In most cases, the numeric limitation must be achieved to ensure the adequacy of the BMP program. Waste load allocations for storm water and non-storm water discharges have been included within this Order only if the TMDL has received all necessary approvals. This Order establishes WQBELs and conditions consistent with the requirements and assumptions of the WLAs in the TMDLs as required by 40 CFR 122.44(d)(1)(vii)(B).

A TMDL is the total amount of a particular pollutant that a water body can receive and still meet Water Quality Standards (WQSs), which are comprised of Water Quality Objectives (WQOs), Beneficial Uses and the States Policy on Maintaining High Quality Waters[163]. The WQOs serve as the primary basis for protecting the associated Beneficial Use. The Numeric Target of a TMDL interprets and applies the numeric and/or narrative WQOs of the WQSs as the basis for the WLAs. This Order addresses TMDLs through Water Quality Based Effluent Limitations (WQBELs) that must be consistent with the assumptions and requirements of the WLA[164]. Federal guidance[165] states that when adequate information exists, storm water permits are to incorporate numeric water quality based effluent limitations. In most cases, the numeric target(s) of a TMDL are a component of the WQBELs. When the numeric target is based on one or more numeric WQOs, the numeric WQOs and underlying assumptions and requirements will be used in the WQBELs as numeric effluent limitations by the end of the TMDL compliance schedule, unless additional information is required. When the numeric target interprets one or more narrative WQOs, the numeric target may assess the efficacy and progress of the BMPs in meeting the WLAs and restoring the Beneficial Uses by the end of the TMDL compliance schedule.

This Order fulfills a component of the TMDL Implementation Plan adopted by this Regional Board on June 11, 2008 for indicator bacteria in Baby Beach by establishing WQBELs expressed as both BMPs to achieve the WLAs and as numeric limitations[166] for the City of Dana Point and the County of Orange. The establishment of WQBELs expressed as BMPs should be sufficient to achieve the WLA specified in the TMDL. The Waste Load Allocations (WLAs) and Numeric Targets are the necessary metrics to ensure that the BMPs achieve appropriate concentrations of bacterial indicators in

[163] State Water Resources Control Board, Resolution No. 68-16
[164] 40 CFR 122.44(d)(1)(vii)(B)
[165] USEPA, *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits,* 61 FR 43761, August 26, 1996
[166] The Waste Load Allocations are defined in Resolution No. R9-2008-0027, A Resolution to Adopt an Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay.

the receiving waters.

Discussion of Finding E.9, E.10, E.11. Section 303(d)(1)(A) of the Clean Water Act (CWA) requires that:

> "*Each state must identify those waters within its boundaries for which the effluent limitations…are not stringent enough to implement any water quality standard (WQS) applicable to such waters.*"

The CWA also requires states to establish a priority ranking of impaired waterbodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired waterbodies is called the Section 303(d) List. The current Section 303(d) List was approved by the State Water Resources Control Board (State Board) on October 25, 2006. On June 28, 2007 the 2006 303(d) list for California was given final approval by the United States Environmental Protection Agency (USEPA). Every two years the State of California is required by CWA section 303(d) and 40 CFR(130.7) to develop and submit to the USEPA for approval an updated 303(d) list of impaired waterbodies. The Regional Board is currently undergoing the required 2 year (2008) update for submittal to the State Board.

Multiple water bodies in Orange County have been identified as impaired and placed on the Section 303(d) list. The Regional Board has 78 current 303(d) listings for which TMDLs must be prioritized and subsequently developed. The 303(d) listing of a waterbody and subsequent TMDL development is required when regulations under current permits, such as Technology Based Effluent Limitations (TBELS), are not stringent enough to meet Water Quality Standards and protect the Beneficial Uses of Waters of the State. In 2004, the *Bacteria Impaired Waters TMDL Project II* addressed six bacteria impaired shorelines including Baby Beach in Dana Point Harbor. On June 11, 2008 the Regional Board adopted a Basin Plan amendment to incorporate *TMDLs for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay*. On June 16, 2009, the State Board approved the Basin Plan amendment The *TMDLs for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay* are pending approval by the State Office of Administrative Law (OAL) and USEPA.

Storm water discharges from developed and developing areas in Orange County are a significant source of certain pollutants that cause, may be causing, threatening to cause or contributing to water quality impairment in the waters of Orange County. Furthermore, the CWA section 303(d) list indicates that there is a reasonable potential that municipal storm water and dry weather discharges from MS4s cause or may cause or contribute to an excursion above water quality standards for the following pollutants: Indicator Bacteria, Phosphorous, Toxicity and Turbidity. In accordance with CWA section 303(d), the Regional Board is required to establish TMDLs for these pollutants in these waters to eliminate impairment and attain water quality standards. Per 40 CFR(130.7), WLAs are required for all point sources, including storm water and

non-storm water discharges from MS4s. Therefore, focused pollutant control actions and further pollutant impact assessments by the Copermittees are warranted and required pursuant to this Order.

MS4 Permits address only those TMDL WLAs that have been adopted by the Regional Board and have been approved by the State Board, OAL and USEPA. WLAs are portions of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. The TMDL WLAs in MS4 Permits can be addressed using water quality-based numeric effluent limitations (WQBELs) calculated at end-of-pipe. WQBELs must be consistent with the assumptions and requirements of the WLAs.[167]

Assessment of compliance with WLAs is to be assessed at the point of discharge to the receiving water and within the receiving water. TMDL WLAs evaluated end-of-pipe will be assessed using WQBELs. Determination of compliance may also be assessed within the receiving waters to evaluate WLA reductions, program effectiveness and to assess overall water quality. As Numeric Targets serve to establish WLAs, they are part of the underlying assumptions of the WLA and can serve as points of compliance.

Finding E.12. This Order requires each Copermittee to effectively prohibit all types of unauthorized discharges of non-storm water into its MS4. However, historically pollutants have been identified as present in dry weather non-storm water discharges from the MS4s through 303(d) listings, monitoring conducted by the Copermittees under Order No. R9-2002-0001, and there are others expected to be present in dry weather non-storm water discharges because of the nature of these discharges. This Order includes action levels for pollutants in non-storm water, dry weather, discharges from the MS4 designed to ensure that the requirement to effectively prohibit all types of unauthorized discharges of non-storm water in the MS4 is being complied with. Action levels in the Order are based upon numeric or narrative water quality objectives and criteria as outlined in the Basin Plan, Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). An exceedance of an action level requires specified responsive action by the Copermittees. This Order describes what actions the Copermittees must take when an exceedance of an action level is observed. Exceedances of non-storm water action levels do not alone constitute a violation of this Order but could indicate non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions established in this Order. Failure to undertake required source investigation and elimination action following an exceedance of a non-storm water action level (NAL or action level) is a violation of this Order. The Regional Board recognizes that use of action levels will not necessarily result in detection of all unauthorized sources of non-storm water discharges because there may be some

[167] Per 40 CFR 122.44(d)(1)(vii)(B)

discharges in which pollutants do not exceed established action levels. However, establishing NALs at levels appropriate to protect water quality standards is expected to lead to the identification of significant sources of pollutants in dry weather non-storm water discharges.

Discussion of Finding E.12. This Order includes the existing requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges in the MS4s. It also includes the following prohibition set forth in the Basin Plan: "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code section 13050 is prohibited." (Prohibition A.1.) As discussed in the Order's Findings on discharge characteristics, e.g., C.2.,C.4., C.6., C.7., C.9., C.14., and C.15., the Copermittees' reliance on BMPs for the past 19 years has not resulted in compliance with applicable water quality standards or compliance with the requirement to effectively prohibit all types of unauthorized discharges of non-storm water in the MS4. The Regional Board has evaluated (in accordance with 40 CFR 122.44(d)(1)) past and existing control (BMPs), non-storm water effluent monitoring results, the sensitivity of the species in receiving waters (e.g. endangered species), and the potential for effluent dilution and has determined that existing BMPs to control pollutants in storm water discharges are not sufficient to protect water quality standards in receiving waters and the existing requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges into the MS4 historically results in the discharge of pollutants to the receiving waters.

Therefore it is appropriate to establish dry weather non-storm water action levels based upon established water quality standards to measure pollutants levels in the discharge of dry weather non-storm water that could indicate non-compliance with the requirement to effectively prohibit al types of unauthorized non-storm water discharges into the MS4 and/or that these discharges are causing, or threatening to cause, a condition of pollution, contamination or nuisance in the receiving waters. NALs are not numeric effluent limitations. While not alone a violation of this Order, an exceedance of an NAL requires the Copermittees to initiate a series of source investigation and elimination actions to address the exceedance. Results from the NAL monitoring are to be used in developing the Copermittees annual work plans. Failure to undertake required source investigation and elimination action following an exceedance of an NAL is a violation of this Order. Please see further discussion in the directives section C of the fact sheet.

A purpose of monitoring, required under this and previous Orders, as stated in the Monitoring and Reporting Program is to "detect and eliminate illicit discharges and illicit connections to the MS4" and to answer the following core management questions:

1. Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?

2. What is the extent and magnitude of the current or potential receiving water problems?
3. What is the relative MS4 discharge contribution to the receiving water problem(s)?
4. What are the sources of MS4 discharge that contribute to receiving water problem(s)?
5. Are conditions in receiving waters getting better or worse?

For the past 4 permit cycles (19 years), Copermittees have utilized their IC/ID program to identify and eliminate non-storm water discharges that are sources of pollutants to the MS4. The Copermittees are also subject to the requirement to effectively prohibit all types of unauthorized discharges of non-storm water into the MS4s. Historically, discharges of unauthorized non-storm water do occur, resulting in the discharge of pollutants to the receiving water. NALs have been included in this Order to ensure that the Copermittees comply with the requirement to effectively prohibit all types of unauthorized non-storm water discharges that are a source of pollutants in the receiving waters.

F. Public Process

Finding F.1. The Regional Board has notified the Copermittees, all known interested parties, and the public of its intent to consider adoption of an Order prescribing waste discharge requirements that would serve to renew an NPDES permit for the existing discharge of runoff.

Discussion of Finding F.1. Public notification of development of a draft permit is required under Federal regulation 40 CFR 124.10(a)(1)(ii). This regulation states "(a) Scope. (1) The Director shall give public notice that the following actions have occurred: (ii) A draft permit has been prepared under Sec. 124.6(d)." Public notifications "shall allow at least 30 days for public comment," as required under Federal regulation 40 CFR 124.10(b)(1).

Finding F.2. The Regional Board has held public hearings on April 11, 2007, February 13, 2008, July 1, 2009, and November 18, 2009 and heard and considered all comments pertaining to the terms and conditions of this Order.

Discussion of Finding F.2. Public hearings are required under CWC Section 13378, which states "Waste discharge requirements and dredged or fill material permits shall be adopted only after notice and any necessary hearing." Federal regulation 40 CFR 124.12(a)(1) also requires public hearings for draft permits, stating "The Director shall hold a public hearing whenever he or she finds, on the basis or requests, a significant degree of public interest in a draft permit(s)." Regarding public notice of a public hearing, Federal regulation 40 CFR 124.10(b)(2) states that "Public notice of a public hearing shall be given at least 30 days before the hearing."

IX. DIRECTIVES

This section discusses significant changes which have been made to the requirements of the Order from the requirements which were previously included in Order No. R9-2002-0001. For each section of the Order than has been changed there is a discussion which describes the change that was made and provides the rationale for the change. In addition, comments on the Copermittees' ROWD recommendations, as they pertain to each changed requirement of the Order, are provided.

Requirements of the Order that are not discussed in this section have not been significantly changed from those requirements previously included in Order No. 2002-0001. For such requirements, discussions and rationale for the requirements can be found in section VII of the Fact Sheet/Technical Report for Regional Board Order No. R9-2002-0001, dated February 13, 2002. Section VII also provides additional background information for those requirements that have undergone significant change which are described in detail in this report. The Fact Sheet/Technical Report is available for download at:

http://www.waterboards.ca.gov/sandiego/programs/oc_stormwater.html

Legal authority citations are provided for each major section of the Tentative Order. These citations apply to all applicable requirements within the section for which they are provided.

A. Prohibitions and Receiving Water Limitations

The following legal authority applies to section A:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: The Regional Board Water Quality Control Plan for the San Diego Basin (Basin Plan) contains the following waste discharge prohibition: "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited."

California Water Code section 13050(l) states "(1) 'Pollution' means an alteration of the quality of waters of the state by waste to a degree which unreasonably affects either of the following: (A) The water for beneficial uses. (B) Facilities which serve beneficial uses. (2) 'Pollution' may include "contamination."

California Water Code section 13050(k) states "'Contamination' means an impairment of the quality of waters of the state by waste to a degree which creates a hazard to public health through poisoning or through the spread of disease. 'Contamination' includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected."

California Water Code section 13050(m) states "'Nuisance' means anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (3) Occurs during, or as a result of, the treatment or disposal of wastes."

California Water Code section 13241 requires each regional board to "establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance […]."

California Water Code Section 13243 provides that "A regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted."

California Water Code Section 13263(a) provides that waste discharge requirements prescribed by the Regional Board implement the Basin Plan.

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A - D) require municipalities to implement controls to reduce pollutants in storm water runoff from commercial, residential, industrial, and construction land uses or activities.

Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(A - D) require municipalities to have legal authority to control various discharges to their MS4.

Federal NPDES regulation 40 CFR 122.44(d)(1) requires municipal storm water permits to include any requirements necessary to "[a]cheive water quality standards established under section 303 of the CWA, including State narrative criteria for water quality."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Administrative Record Page No. 025396

Section A of the Order combines two previously distinct requirement sections – Prohibitions and RWLs. These sections have been combined into one section for organization purposes and to reduce redundancy, since both sections address the same issue. These changes have no net effect on the implementation and enforcement of the Order.

Section A.3 describes the “iterative process.” The Copermittees must reduce the discharge of storm water pollutants to the MEP and ensure that their MS4 discharges do not cause or contribute to violations of water quality standards. If the Copermittees have reduced storm water pollutant discharges to the MEP, but their discharges are still causing or contributing to violations of water quality standards, the Order provides a clear and detailed process for the Copermittees to follow. This process is often referred to as the "iterative process" and can be found at section A.3. The language of section A.3 is prescribed by the State Board and is included in MS4 permits statewide. Section A.3 essentially requires additional BMPs to be implemented until MS4 storm water discharges no longer cause or contribute to a violation of water quality standards.

The State Policy with respect to maintaining high quality waters has been added to clarify that discharges from the MS4 that cause or contribute to a violation of the Policy for high quality waters is prohibited.

B. Non-Storm Water Discharges

The following legal authority applies to section B:

Broad Legal Authority: CWA sections 402, 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F), 40 CFR 122.26(d)(2)(iv) and 40 CFR 122.44.

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B) requires MS4 operators "to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Copermittees shall prevent all types of illicit discharges into the MS4 except for certain non-storm water discharges.

Section B of the Order has been reworded to simplify and clarify the requirements for addressing non-storm water discharges that are not prohibited. This rewording has no net effect on the implementation and enforcement of the Order.

Section B.2 has been modified by the removal of landscape irrigation, irrigation water and lawn watering from the list of non-storm water discharges that are not prohibited, i.e. landscape irrigation, irrigation water and lawn watering discharges into and from the MS4 are now prohibited. Saline swimming pool discharges have been added as a footnote to the list provided the discharge is directly to a saline water body (see Finding C.14 and Discussion). Language has been added to the section to clarify differences in the federal regulations under 40 CFR 122.26(d)(iv)(B) and for the authority of the Director (Regional Board) in regards to exempted discharges.

The following exemptions have been removed from Section B, per identification as a source and conveyance of pollutants to waters of the United States when discharged from the MS4: landscape irrigation, irrigation water and lawn watering. Therefore, these illicit discharges must be addressed per 40 CFR 122.26(B). These previously exempted discharges have been identified by Permittees as a source of pollutants and conveyance of pollutants to waters of the United States in the following:

The County of Orange conducted, per requirements of 401 Water Quality Certification 02C-055, a Drainage Area Reconnaissance and Urban Runoff Characterization study. From the reconnaissance and characterization, the County of Orange determined that "water quality results provided two important findings". First, "analytical data strongly indicates that irrigation overspray and drainage constitutes a very substantial source and conveyance mechanism for fecal indicator bacteria into Aliso Creek, and suggests that reduction measures for this source of urban runoff could provide meaningful reduction in bacteria loading to the stream". Aliso Creek, currently 303(d) listed as impaired for Indicator Bacteria, is included in the Bacteria Project I TMDL adopted by the San Diego Regional Board on December 12, 2007. Secondly, reclaimed water high in electrical conductivity and Nitrate was indicated as "the source water at three of the excessive runoff locations (P1,P2,J01P02). These dissolved nitrogen concentration and flow rates create relatively high nitrogen loadings, which have the potential to contribute to undesirable levels of periphytic algal growth in Aliso Creek".

The County of Orange, Cities of Orange County and Orange County Flood Control District on November 15, 2007 submitted their Unified Annual Progress Report for the 2006-2007 reporting period. Within the report, the Copermittees demonstrate that a "wide range of constituents exceeded the tolerance interval bounds", including orthophosphate. "These high levels of orthophosphate concentration are most likely the result of fertilizer runoff or reclaimed water runoff". Aliso Creek is currently 303(d) listed as impaired for phosphorous.

The County of Orange, Orange County Flood Control District and Permittees within the San Juan Creek, Laguna Coastal Streams, Aliso Creek, and Dana Point Coastal Streams Watersheds on November 15, 2007 submitted their Watershed Action Plan Annual Reports for the 2006-2007 reporting period. San Juan Creek, Laguna Coastal Streams, Aliso Creek and Dana Point Coastal Streams are all currently 303(d) listed as impaired for Indicator Bacteria within the watershed and/or Pacific Ocean at the discharge point of the watershed. These locations are included in the Bacteria Project I TMDL adopted by the San Diego Regional Board on December 12, 2007. The Copermittees, within their Watershed Action Strategy Table for Fecal Indicator Bacteria "Support programs to reduce or eliminate the discharge of anthropogenic dry weather nuisance flow throughout the […] watershed. Dry weather flow is the transport medium for bacteria and other 303(d) constituents of concern". Additionally, they state that "conditions in the MS4 contribute to high seasonal bacteria propagation in-pipe during warm weather. Landscape irrigation is a major contributor to dry weather flow, both as surface runoff due to over-irrigation and overspray onto pavements; and as subsurface seepage that finds its way into the MS4".

In 2006, the State Water Quality Control Board allocated Grant funding to the Smarttimer/Edgescape Evaluation Program (SEEP). Project partners include the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Nigel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita and San Juan Capistrano as well as the Metropolitan Water District of Southern California, the Department of Agriculture and ten south Orange County water districts. The project targets irrigation runoff by retrofitting existing development and documenting the conservation and runoff improvements. The Grant Application states that "Irrigation runoff contributes flow & pollutant loads to creeks and beaches that are 303(d) listed for bacteria indicators". Furthermore, the grant application states that "Regional program managers agree that the reduction and/or elimination of irrigation-related urban flows and associated pollutant loads may be key to successful attainment of water quality and beneficial use goals as outlined in the San Diego Basin Plan and Bacteria TMDL over the long term". This is reinforced in the project descriptions and objectives: "Elevated dry-weather storm drain flows, composed primarily in the South Orange County Region of landscape irrigation water wasted as runoff, carry pollutants that impair recreational use and aquatic habitats all along Southern California's urbanized coastline. Storm drain systems carry the wasted water, along with landscape derived pollutants such as bacteria, nutrients and pesticides, to local creeks and the ocean. Given the local Mediterranean climate, excessive perennial dry season stream flows are an unnatural hydrologic pattern, causing species shifts in local riparian communities and warm, unseasonal contaminated freshwater plumes in the near-shore marine environment". The basis of this grant project, conducted by the Permittees and additional water use partners, is that over-irrigation (landscape irrigation, irrigation water and lawn watering) into the MS4 is a source and conveyance of pollutants. In addition, they indicate that the alteration of natural flows is impacting the Beneficial Uses of waters of the State.

Section B.3 has been clarified by the recognition of building fire suppression system maintenance (e.g. fire sprinklers) as an illicit discharge. The Regional Board has found that such discharges contain waste, and as such the Regional Board is requiring these discharges be addressed as illicit discharges by the Copermittees. This is consistent with the Federal Regulations (55 Fed Reg 48037). Thus, the discharges are to be prohibited via ordinance, order or similar means and incorporated as part of the Copermittees IC/ID program.

C. Non Storm Water Dry Weather Action Levels

The following legal authority applies to Section C:

Broad Legal Authority: CWA section 402, 402(p)(3)(B)(ii), CWC §13377. 40 CFR 122.26(d)(2)(i)(B, C, E, and F), and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority:
The Clean Water Act section 402(p)(3)(B)(ii) provides that MS4 permits "shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B) provides that the proposed management program "shall be based on a description of a program including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Copermittee include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system; this program description shall address all types of illicit discharges, however the [listed exempt] category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(2) provides that the Copermittee include in its proposed management program "a description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(3) provides that the Copermittee include in its proposed management program "procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field scree, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water."

Section C establishes non-storm water dry weather action levels (see also Finding C.14, Finding E.12, and the Discussion for those sections).

Non-exempted, non-storm water discharges are to be effectively prohibited from entering the MS4 or become subject to another NPDES permit (see Federal Register, Vol. 55, No. 222, pg. 47995). Conveyances which continue to accept non-exempt, non-storm water discharges do not meet the definition of MS4 and are not subject to

section 402(p)(3)(B) of the CWA unless the discharges are issued separate NPDES permits. Instead, conveyances that continue to accept non-exempt, non-storm water discharges that do not have a separate NPDES permit are subject to sections 301 and 402 of the CWA (see Federal Register, Vol. 55, No. 222, pg. 48037).

The Order requires the sampling of a representative percentage of major outfalls and other identified stations within each hydrologic subarea. While it is important to assess all major outfall discharges from the MS4 into receiving waters, to date the Copermittees have implemented a dry-weather monitoring program that has identified major outfalls that are representative of each hydrologic subarea and have randomly sampled other major outfalls. Thus, it is expected that the Copermittees will utilize past dry weather monitoring in the selection and annual sampling of a representative percentage of major outfalls in accordance with the requirements under Section C.4.

Background and Rationale for Requirements

The Regional Board developed the requirements for dry weather, non-storm water action levels based upon an evaluation of existing controls, monitoring and reporting programs (effluent and receiving water), special studies, and based upon Findings C.1 C.3, C.4, C.6, C.7 and C.14.

Water Quality Control Plan

Section 303(C) of the Clean Water Act requires the state to establish Water Quality Standards (WQS). WQS define the water quality goals of a waterbody, or part thereof, by designating their use or uses to be made of the water and by setting criteria necessary to protect those uses.

The Regional Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan. The Basin Plan was adopted by the Regional Board on September 8, 1994, and was subsequently approved by the State Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and State Board.

State Board Resolution No. 88-63 establishes state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal and domestic supplies. Requirements of this Order do not include effluent limitations reflecting municipal and domestic supply use as all waters within the County of Orange under this Order are specifically exempted from municipal and domestic supply as a Beneficial Use.

The State Board adopted the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005, it was approved by USEPA, and became effective on February 14, 2006. The Ocean Plan establishes Water Quality Objectives, general requirements for management of waste discharged to the ocean, effluent quality

requirements, discharge provisions, and general provisions. Limitations derived from the Ocean Plan have been included in this Order as action levels to protect the Beneficial Uses of enclosed bays and estuaries because their Beneficial Uses are similar

National Toxics Rule (NTR) and California Toxics Rule (CTR)

The USEPA adopted the NTR on December 22, 1992, which was amended on May 4, 1995, and November 9, 1999. The CTR was adopted by USEPA on May 18, 2000, and amended on February 13, 2001. These rules include water quality criteria for priority pollutants and are applicable to non-storm water discharges from the MS4. Criteria for 126 priority pollutants are established by the CTR. USEPA promulgated this rule to fill a gap in California water quality standards that was created in 1994 when a California court overturned the State's water quality control plans containing criteria for priority toxic pollutants. The federal criteria are legally applicable in the State of California for inland surface waters, enclosed bays and estuaries for all purposes and programs under the CWA.

Antidegradation Policy

Section 131.12 of 40 CFR requires that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Board established California's antidegradation policy in State Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Boards' Basin Plans implement, and incorporate by reference, both the State and federal antidegradation policies. Permitted non-storm water discharges from the MS4 are consistent with the antidegradation provision of 40 CFR section 131.12 and State Board Resolution No. 68-16.

Monitoring and Reporting

40 CFR Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of CWC authorize the Regional Boards to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement state and federal regulations. The Monitoring and Reporting Program can be found as Attachment E of the Order.

Dilution or Mixing Zones

In order to protect the Beneficial Uses of receiving waters from pollutants as a result of non-storm water MS4 discharges, this Order does not provide for a mixing zone or a zone of initial dilution except when the discharge is to the surf zone.

The San Diego Region has predominately intermittent and ephemeral rivers and streams (Inland Surface Waters) which vary in flow volume and duration at spatial and temporal scales. Therefore, it is assumed that any non-storm water discharge from

the MS4 into the receiving water is likely to be of a quantity and duration that does not allow for dilution or mixing. For ephemeral systems, non-storm water discharges from the MS4 are likely to be the only surface flows present within the receiving water during the dry season.

MS4 discharge points to bays, estuaries and lagoons are not designed to achieve maximum initial dilution and dispersion of non-storm water discharges. Thus, initial dilution factors for non-storm water discharges from the MS4 into bays, estuaries, and lagoons are conservatively assumed to equal zero.

It is appropriate to base numeric action levels for dry weather non-storm water discharges on these considerations.

California Ocean Plan

A discharge to a surf zone occurs when the non-storm water discharge point from the MS4 discharges:

a) Directly into the ocean in a wave induced area subject to long-shore conditions; or
b) Across a primarily sandy substrate beach and subsequently directly into a wave induced area subject to long-shore conditions;

Establishment of Action Levels

Action levels in the Order are based upon numeric or narrative water quality objectives and criteria as defined in the Basin Plan, the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and the State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). The Regional Board recognizes that use of action levels will not necessarily result in detection of all unauthorized sources of non-storm water discharges because there may be some discharges in which pollutants do not exceed established action levels.

In June of 2006, the California Water Board's Blue Ribbon Storm Water Panel released its report titled 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.' The report only examined numerical limits as applied to storm water and not non-storm water. In the recommendations, the Blue Ribbon panel proposed storm water action levels which are computed using statistical based population approaches. For example, Section D of the Permit uses a recommended statistical approach to develop storm water action levels. The Blue Ribbon panel did not examine the efficacy of action levels or recommendations for development of action levels for non-storm water discharges.

For discharges to inland surface waters, action levels are based on the EPA water quality criteria for the protection of aquatic species, the EPA water quality criteria for the protection of human health, water quality criteria and objectives in the applicable

State plans, effluent concentration available using best available technology, and 40 CFR 131.38. Since the assumed initial dilution factor for the discharge is zero and a mixing zone is not allowed, a non-storm water discharge from the MS4 could not cause an excursion from numeric receiving water quality objectives if the discharge is in compliance with the action levels contained in the Order. Likewise, discharges in compliance with action levels to the surf zone cannot cause excursions from water quality objectives.

Dry weather monitoring of non-storm water MS4 effluent conducted under the previous Order (R9-2002-001), which relies on BMPs as controls to protect water quality standards, has identified pollutants that are found in non-storm water discharges. Monitoring of pH, Dissolved Oxygen, Phosphorus, Nitrate, Turbidity and Methylene Blue Active Substances (MBAS) in non-storm water MS4 discharges has shown that the effluent exceeds state water quality criteria. It is appropriate to establish numeric action levels for these pollutants to ensure that the Copermittees are complying with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4s.

Water Quality Limited Segments on the current 303(d) list (2006) within the jurisdiction of this Order have been identified due to exceedances of Sulfate, Chloride and Total Dissolved Solids criteria from a source which is currently unknown (see Table 2a). These pollutants are not monitored for under the current non-storm water MS4 effluent monitoring program. While this Order does not establish a numeric action level for these constituents at this time, this Order now requires non-storm water MS4 discharge monitoring to include monitoring for Sulfates, Chlorides and Total Dissolved Solids.

Priority pollutants analyzed included Cadmium, Copper, Chromium, Lead, Nickel, Silver and Zinc. These priority pollutants are likely to be present in non-storm water MS4 discharges (see Finding C.3) and dissolved metal effluent monitoring is available from the previous Order. The most stringent applicable water quality criteria have been identified for these seven metals and, excluding Chromium (VI), and all are dependent on receiving water hardness. The conversion factors for Cadmium and Lead are also water hardness dependent (40 CFR 131.38(b)(2)). These levels are established as the action levels for these constituents.

While effluent monitoring is available from the previous Order, the monitoring was done for dissolved concentrations and lacked a measurement of receiving water hardness. Due to the multiple point source discharges of non-storm water from the MS4, a discharge may enter a receiving water whose hardness will vary temporally. In addition, hardness may vary spatially within and among receiving waters.

However, other information is available to determine the appropriateness of an action level. Existing effluent monitoring concentrations absent of receiving water data, no dilution credit or mixing zone allowance, current 303(d) listings of receiving waters for

other pollutants, receiving water monitoring data, and the classification of waters as critical habitat for endangered and species of concern, provide evidence that NALs are appropriate for these priority pollutants at this time in order to ensure that the Copermittees comply with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4s.

Existing effluent data (see attachment F), absent receiving water hardness, provides evidence that it is appropriate to include NALs based on a conservative hardness level. Absent receiving water hardness, all analyzed metals, are discharged at concentrations which may be in exceedance of CTR criteria depending on receiving water hardness. Chromium effluent data that is available is in the form of total Chromium. However, per the SIP, Chromium criteria are for Chromium III and Chromium VI. Therefore, the total Chromium measurement is inadequate, but can be used as an estimate of Chromium III and VI concentrations.

As discussed, inland surface waters, enclosed bays, and estuaries have conservatively been allotted a mixing zone and dilution credit of zero. As such, any discharge of these priority pollutants is likely to impact the receiving water, regardless of the quantity or rate of discharge.

As discussed in Finding C.7 and discussion, multiple receiving waters within the County of Orange are 303(d) listed for a number of pollutants, including toxicity. The 303(d) listing of a waterbody as impaired provides evidence that the receiving water(s) are already experiencing negative impacts. These water quality limited segments are more susceptible to degradation from the synergistic addition of more pollutants, even from upstream discharges. It is therefore appropriate to include numeric action levels designed to ensure that the Copermittees are complying with the requirement to effectively prohibit all types of unauthorized discharges of non-storm water into the MS4s.

Copermittees have monitored the receiving waters for MS4 discharges pursuant to requirements under Order R9-2002-0002. Dry weather receiving water data indicates poor conditions within waters receiving non-storm water MS4 discharges. Urban stream bioassessment conducted under the Order (2002-2008) has documented all non-reference sites as consistently having poor or very poor Index of Biotic Integrity (IBI) scores, in part due to receiving water toxicity[168].

Receiving waters within the jurisdiction of this Order are classified as critical habitat, including being designated with the RARE beneficial use, for endangered, threatened and species of concern including, but not limited to, *O*. *mykiss irideus*, *E. newberryil, A. marmorata pallida* and *G. orcutti.*

[168] 2006-07 and 2007-08 Unified Annual Progress Reports.

The Regional Board evaluated discharges to the surf zone, per the California Ocean Plan, Appendix VI and in accordance with 40 CFR 122.44(d). Indicator bacteria, pH, turbidity (NTU), and metals were analyzed for the purpose of determining the levels of these constituents in non-storm water discharges from the MS4.

The Regional Board has determined that there is not sufficient information at this time to develop action levels for pH, turbidity and metals. While non-storm water MS4 effluent data is available, the data collected is for discharges to inland surface waters, enclosed bays and estuaries. Preliminary receiving water data and limited non-storm water MS4 discharge data collected under the Ambient Coastal Receiving Water Monitoring indicates some exceedances of criteria for metals in the discharge, and toxicity in receiving waters[169]. However, the Regional Board believes the level of data available is insufficient, and is requiring additional monitoring of pH, turbidity and metals in non-storm water MS4 discharges to ocean waters (discharges to the surf zone).

Water Quality Limited Segments on the current 303(d) list (2006) for the Pacific Ocean shoreline within the jurisdiction of this Order have been identified due to exceedances of Indicator Bacteria criteria whose known source includes non-storm water discharges from the MS4. These 303(d) listed segments support extensive REC-1 beneficial uses and are located within State Marine Reserves and Conservation Areas. The listing of receiving waters as 303(d) listed for bacteria supports the inclusion of action levels to ensure that the Copermittees are complying with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4. In addition, no dilution credit or mixing zone allowance is included in developing numeric action levels for the discharge of a pollutant to waters which are 303(d) listed as impaired for that pollutant.

Dry Weather Non-Storm Water Action Levels Calculations for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries

On the basis of the foregoing discussion, the NALs were calculated with the following considerations and assumptions:

> No dilution credit is considered for the discharge. Therefore, the discharge must comply with the Water Quality Objective at the point of discharge.
>
> For NALs based on CTR, implementation was done using the procedure list as outlined in the SIP (see below example).

NAL CTR/SIP Calculation – Zinc Example:

Criteria for Priority Toxic Pollutants in the State of California is described in the CTR

[169] 2007-08 Unified Annual Progress Report.

table listed in 40 CFR 131.38.

A		B Freshwater		C Saltwater		D Human Health (10^{-6} risk for carcinogens) For consumption of:	
# Compound	CAS Number	Criterion Maximum Conc. [d] B1	Criterion Continuous Conc. [d] B2	Criterion Maximum Conc. [d] C1	Criterion Continuous Conc. [d] C2	Water & Organisms (µg/L) D1	Organisms Only (µg/L) D2
1. Antimony	7440360					14 a,s	4300 a,t
2. Arsenic [b]	7440382	340 i,m,w	150 i,m,w	69 i,m	36 i,m		
3. Beryllium	7440417					n	n
4. Cadmium [b]	7440439	4.3 e,i,m,w,x	2.2 e,i,m,w	42 i,m	9.3 i,m	n	n
5a. Chromium (III)	16065831	550 e,i,m,o	180 e,i,m,o			n	n
5b. Chromium (VI) [b]	18540299	16 i,m,w	11 i,m,w	1100 i,m	50 i,m	n	n
6. Copper [b]	7440508	13 e,i,m,w,x	9.0 e,i,m,w	4.8 i,m	3.1 i,m	1300	
7. Lead [b]	7439921	65 e,i,m	2.5 e,i,m	210 i,m	8.1 i,m	n	n
8. Mercury [b]	7439976	[Reserved]	[Reserved]	[Reserved]	[Reserved]	0.050 a	0.051 a
9. Nickel [b]	7440020	470 e,i,m,w	52 e,i,m,w	74 i,m	8.2 i,m	610 a	4600 a
10. Selenium [b]	7782492	[Reserved] p	5.0 q	290 i,m	71 i,m	n	n
11. Silver [b]	7440224	3.4 e,i,m		1.9 i,m			
12. Thallium	7440280					1.7 a,s	6.3 a,t
13. Zinc [b]	7440666	120 e,i,m,w,x	120 e,i,m,w	90 i,m	81 i,m		

Saltwater criterion maximum concentration (CMC) = 90 ug/L
Saltwater criterion continuous concentration (CCC) = 81 ug/L

These criteria are expressed in terms of the dissolved fraction of the metal in the water column. [See footnote “m” to Table in paragraph (b)(1) of 40 CFR 131.38].

40 CFR 122.45(c) requires that this Order include effluent limitations as total recoverable concentration; therefore it is appropriate to include action levels also as total recoverable concentration.

The SIP requires that if it is necessary to express a dissolved metal value as a total recoverable and a site-specific translator has not yet been developed, the Regional Board shall use the applicable conversion factor from 40 CFR 131.38.

The term “Conversion Factor” (CF) represents the recommended conversion factor for converting a metal criterion expressed as the total recoverable fraction in the water column to a criterion expressed as the dissolved fraction in the water column.

Total recoverable concentration * CF = Dissolved concentration criterion

or

Total recoverable concentration = Dissolved concentration criterion/ CF

§ 131.38 40 CFR Ch. I (7–1–08 Edition)

Metal	Conversion factor (CF) for freshwater acute criteria	CF for freshwater chronic criteria	CF for saltwater acute criteria	CF [a] for saltwater chronic criteria
Silver	0.85	[d]	0.85	[d]
Thallium	[d]	[d]	[d]	[d]
Zinc	0.978	0.986	0.946	0.946

CF for Zinc = .946, so the total recoverable concentrations for zinc:
90 ug/L dissolved (CMC)/ 0.946 (CF) = 95 ug/L total recoverable CMC
81 ug/L dissolved (CCC) / 0.946 (CF) = 86 ug/L total recoverable CCC

Effluent Variability multiplier and Coefficient of Variation (CV)
For each concentration based on an aquatic life criterion, the long-term average (LTA) is calculated by multiplying the concentration with a factor that adjusts for effluent variability. The multiplier can be found in Table 1 of the SIP. Since this Order does not have existing data to properly conduct a variability analysis in accordance with the SIP, the CV has been set equal to 0.6 per SIP requirements. The current effluent data is limited due to the small number of representative outfalls sampled, the lack of outfalls discharging to representative waterbodies within the Region, and the targeted nature of the sampling design.

Based upon a CV of 0.6, Table 1 of the SIP requires an effluent variability as follows:
Acute Multiplier = 0.321
Chronic Multiplier = 0.527

The long-term average (LTA) is calculated by multiplying the total recoverable concentrations for zinc with the acute and chronic multipliers:
LTA Acute = 95 ug/L * 0.321 = 30.5
LTA Chronic = 86 ug/L * 0.527 = 45.3
The MDAL and AMAL will be based on the most limiting of the acute and chronic LTA, in the case for copper the most limiting LTA is the acute of 30.5 ug/L

NALs are calculated by multiplying the most limiting LTA with a multiplier that adjusts for the averaging periods and exceedance frequencies of the criteria and the effluent limitations. The multiplier can be found in Table 2 of the SIP. Since this Order has insufficient data, the CV has been set to 0.6 and since sampling frequency is four times a month or less, n has been set equal to 4 per the SIP.

Table 2. Long-Term Average (LTA) Multipliers for Calculating Effluent Limitations

Coefficient of Variation	MDEL Multiplier	AMEL Multiplier			MDEL/AMEL Multiplier		
	99th Percentile Occurrence Probability	95th Percentile Occurrence Probability			MDEL = 99th Percentile AMEL = 95th Percentile Occurrence Probability		
(CV)		n = 4	n = 8	n = 30	n = 4	n = 8	n = 30
0.1	1.25	1.08	1.06	1.03	1.16	1.18	1.22
0.2	1.55	1.17	1.12	1.06	1.33	1.39	1.46
0.3	1.90	1.26	1.18	1.09	1.50	1.60	1.74
0.4	2.27	1.36	1.25	1.12	1.67	1.82	2.02
0.5	2.68	1.45	1.31	1.16	1.84	2.04	2.32
0.6	3.11	1.55	1.38	1.19	2.01	2.25	2.62

Therefore, from Table 2 of the SIP, the LTA multipliers will be as follows:
MDAL Multiplier = 3.11
AMAL Multiplier = 1.55

The MDAL and AMAL limits are calculated by multiplying the LTA with an LTA multiplier for each limit:
MDAL = 30.5 ug/L * 3.11 = 95 ug/L
AMAL = 30.5 ug/L * 1.55 = 47 ug/L

Dry Weather Non-Storm Water Action Levels Calculations for Discharges to the Surf Zone

Based on the foregoing discussion, the Average Monthly and Maximum Daily NALs were calculated with the following considerations and assumptions:

No dilution credit is considered for the discharge. Therefore, the discharge must comply with the Water Quality Objective at the point of discharge.

Whole Effluent Toxicity (WET) Testing Requirements

A WET limit is required if a discharge causes, has a reasonable potential to cause, or contributes to an exceedance of applicable water quality standards, including numeric and narrative. Since these types of discharges are prohibited under this Order, WET limits are not applicable.

Discussion of AMALs, MDALs and Instantaneous Maximums

Where practical, action levels in this Order have been expressed as both AMALs and MDALs. Certain action levels may not practicably be expressed as AMALs and MDALs due to specific BPO language, sampling requirements and/or a lack of Criteria. Based upon the likely sampling frequency of the Copermittees, the frequency of sampling will occur such that grab samples are taken once per sampling day. This single sample would then be subject to MDALs and Instantaneous Maximum levels. In this case, the more conservative action level would apply. In addition, it is expected that some effluent monitoring will occur less than or equal to once per month. In this scenario, the MDAL, AMAL and Instantaneous Maximum levels would need to be met based upon one sample, unless sampling did not occur. For some BPOs, AMALs have been excluded and only MDALs/Instantaneous Maximums set to prevent redundancy in action levels.

Compliance with Action levels (Priority Pollutants)

Compliance with action levels shall be determined as follows:

Dischargers shall be deemed out of compliance with this Order if the Copermittee failed to take the prescribed action in response to a concentration of the priority pollutant in the monitoring sample that is greater than the action level and greater than or equal to the reported Minimum Level (exceedance of an action level). Regardlss of the Copermittee's actions in response to an exceedance, they are still subject to the prohibitions found in Section A and B of the Order.

When determining to take an action in response to the AMALs and more than one sample result is available in a month, the discharger shall compute the arithmetic mean unless the data set contains one or more reported determinations of DNQ or ND. In those cases, the discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:

(1) The data set shall be ranked from low to high, reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.

(2) The median value of the data set shall be determined. If the data set has an odd number of data points then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of those points are ND or DNQ, in which case the median value shall be the lower of the two data points where DNQ is lower than a value and ND is lower than DNQ.

D. Storm Water Action Levels

Section D has been added to establish storm water action levels (see also Finding D.1.h and Discussion).

Introduction

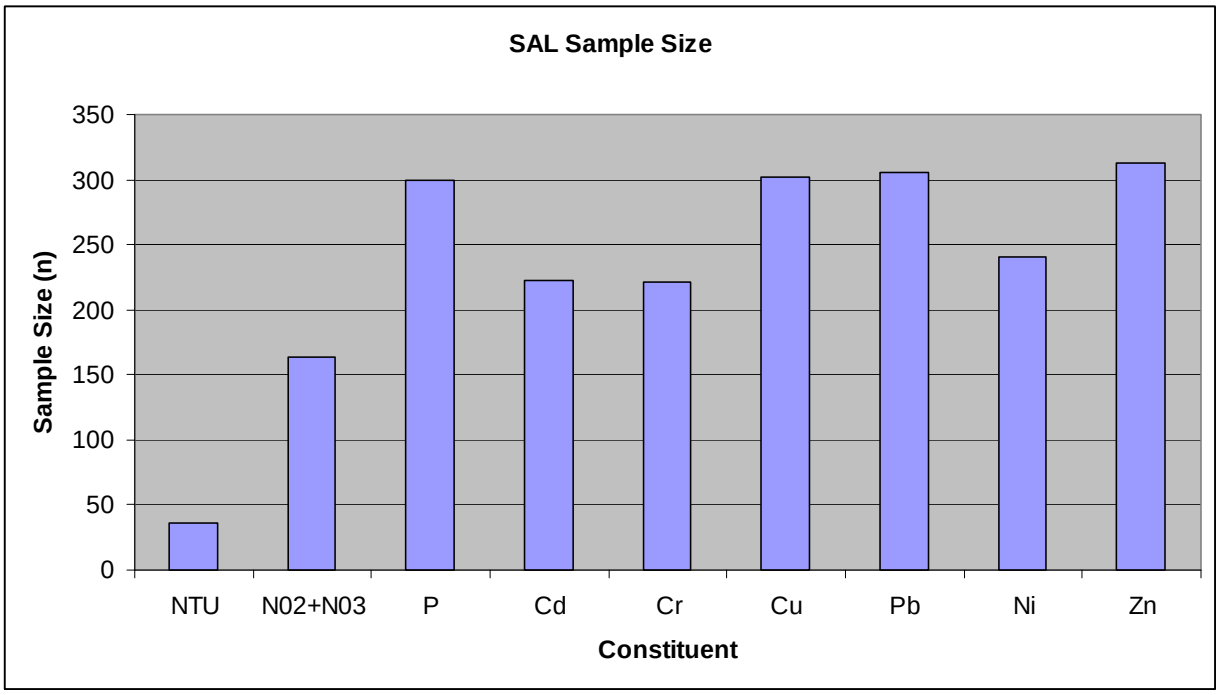
In response to comments at the initial public workshop, meetings with the principle Permittees, and comments from the July 01, 2009 Regional Board meeting, SAL concentrations, standards and constituents have been updated, Order language has been clarified and additions to the monitoring requirements have been made.

SAL Concentration/Standards Updates

SAL pollutant levels have been updated and now come from a regional subset of nationwide Phase I MS4 data. Regional Board staff have chosen to update SALs by using USEPA Climate Zone 6 (arid west) data when computing SALs. Utilizing data from USEPA Climate Zone 6 is expected to produce SALs which closely reflect the environmental conditions experienced in Orange County. The localized subset of data includes sampling events from multiple Southern California locations including Orange, San Diego, Riverside, Los Angeles and San Bernardino Counties. The dataset includes samples taken from highly built-out impervious areas and from storm events representative of Southern California conditions.

Additionally, utilization of regional data is appropriate due to the addition of data into the nationwide Phase I MS4 monitoring dataset in February 2008. This additional data increased the number of USEPA Climate Zone 6 samples to more than 400, and included additional monitoring events within Southern California (see Figure 2).

Figure 2. Sample Sizes Used to Calculate Storm Water Action Levels



Additional changes have been made by staff to update SALs to reflect the water quality standards in the San Diego Regional Water Quality Control Board Basin Plan, the California Toxic Rule and USEPA Water Quality Criteria. Since it is the goal of the SALs, through the iterative and MEP process, to have outfall storm water discharges meet all applicable water quality objectives, the list of constituents to be tested and protocol for testing has been updated to provide a reference point to evaluate the iterative MEP process. As such, Kjedahl Nitrogen (TKN) and Total Suspended Solids (TSS) have been removed from the SAL table. There currently are no appropriate criteria for TKN or TSS, and alternate constituents are available which do have BPOs for comparative purposes. Instead, Nitrate/Nitrite and Turbidity, which have BPOs of 1.0 mg/L and 20 NTUs respectively, are included with associated SALs.

Metals included in SALs include Cadmium, Chromium, Nickel, Zinc, Lead and Copper. In receiving water quality monitoring collected by the Copermittees to date, these metals have been detected and shown to contribute to toxicity at mass loading stations within Southern Orange County.

Monitoring Updates

SAL language has been updated to require the measurement of hardness and to provide more specificity in the assessment of samples with SALs for total metal concentrations. While USEPA Climate Region 6 data includes a large sample size for concentrations of total metals, the impact the concentration will have on receiving waters will vary with receiving water hardness. Since it is the goal of the SALs,

Administrative Record Page No. 025413

through the iterative and MEP process, to have MS4 storm water discharges meet all applicable water quality objectives, the hardness of the receiving water should be used when assessing the total metal concentration of a sample. Thus, when an exceedance of a SAL concentration is detected for a metal the Copermittee must determine if that exceedance is above the existing applicable water quality limitation based upon the hardness of the receiving water. The water quality limitations Permittees must use to assess total metal SAL exceedances are the California Toxic Rule (CTR) and USEPA National Recommended Water Quality Criteria for Freshwater Aquatic Life 1 hour maximum concentrations. The 1 hour maximum concentration is to be used for comparison since it is expected to most replicate the impacts to waters of the State from the first flush following a precipitation event.

E. Legal Authority

The following legal authority applies to section E:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) provides that the Copermittees shall develop and implement legal authority to "Control through ordinance, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity."

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(D) provides that the Copermittees shall develop and implement legal authority to "Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system."

Illicit discharge is defined under Federal NPDES regulation 40 CFR 122.26(b)(2) as "any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A - D) require municipalities to implement controls to reduce pollutants in storm water runoff from commercial, residential, industrial, and construction land uses or activities.

Federal NPDES regulation 40 CFR 122.26(d)(1)(ii) requires from the Copermittee "A description of existing legal authority to control discharges to the municipal separate storm sewer system."

Section E.1.b Prohibit all identified illicit discharges not otherwise allowed pursuant to section B.2 including but not limited to:

(1) Sewage;
(2) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
(3) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
(4) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;

(5) Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
(6) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
(7) Discharges of pool or fountain water containing chlorine, biocides, toxic amounts of salt, or other chemicals; discharges of pool or fountain filter backwash water;
(8) Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and

Duplicative language has been removed from this section.

Section E.1.j has been added to the Order to ensure that BMPs implemented by third parties are effective. Since the Copermittees cannot passively receive and discharge pollutants from third parties, the Copermittees must ensure discharges of storm water pollutants to the MS4 are reduced to the MEP. In order to achieve this, the Copermittees must be able to ensure that effective BMPs are being implemented by requiring the third parties to document BMP effectiveness. Regarding the Copermittees' ability to require documentation and reporting from third parties, USEPA states "municipalities should provide documentation of their authority to enter, sample, inspect, review, and copy records, etc., as well as demonstrate their authority to require regular reports."[170]

[170] USEPA, 1992. Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. EPA 833-B-92-002.

F. Jurisdictional Runoff Management Program

F.1. Development Planning

The following legal authority applies to section F.1:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWA section 402(a), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F), 40 CFR 131.12, and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(2) provides that Copermittees develop and implement a management program which is to include "A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plans shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed."

Federal NPDES regulation 40 CFR 122.44(d)(1) requires municipal storm water permits to include any requirements necessary to "[a]cheive water quality standards established under section 303 of the CWA, including State narrative criteria for water quality."

Sections F.1.a and F.1.b (General Plan and Environmental Review Process) require the Copermittees to update and revise their General Plan (or equivalent plan) and environmental review processes to ensure water quality and watershed protection principles are included. The Copermittees are required to detail any changes to the General Plan or environmental review process in their Jurisdictional Runoff Management Program Annual Reports.

The change made to these sections requires updating the General Plan and Environmental Review Process on an as-needed basis, is supported by information provided in the Copermittees' Report of Waste Discharge (ROWD) and Annual Reports. Each Copermittee has either updated, is in the process of updating, or has assessed its General Plan to ensure the General Plans include the required principles and are in compliance with Order No. R9-2002-0001. The ROWD also states that although all the Copermittees have reviewed their environmental review processes, a number of Copermittees want the overall planning approval process to more effectively ensure that water quality protection is considered in the earliest phases of project consideration.

Section F.1.a has been modified to include redevelopment projects in the General Plan. This change requires Copermittees to update their General Plan to include water quality and watershed protection for all new development and redevelopment projects.

Section F.1.c (Approval Process Criteria and Requirements) requires that all development projects (regardless of size) implement BMPs to reduce storm water pollutant discharges to the MEP. Source control and site design BMP requirements were not clearly described in this section of Order No. R9-2002-0001. Additional detail has been added to this section to better describe the source control and site design BMPs needed for implementation. This additional detail is consistent with the requirements of the SSMP, known in Orange County as the Water Quality Management Plan (WQMP). However, only source control and site design BMPs that apply to all types of development projects are required (i.e., properly designed trash storage areas).

The requirements are consistent with Order No. R9-2002-0001, section F.1.b.1. However, some elements are not contained in the current or proposed DAMP[171] (e.g., buffer zones). One exception is that Order No. R9-2002-0001's requirement that applicants must provide evidence of coverage under the General Industrial Permit has been removed, since industrial tenants for a development project are usually not known during the planning stage.

The section has been modified to reflect the prohibition of over-irrigation runoff to the MS4, as well as LID requirements. Additionally, this section requires the use of native and/or low water use plants for landscaping, where feasible.

Sections F.1.d and F.1.d.(1) (Standard Storm Water Mitigation Plans) require the Copermittees to review and update their local SSMPs (also known in Orange County as Water Quality Management Plans – WQMPs) for compliance with the Order. The sections also require all Priority Development Projects falling under certain categories to meet SSMP requirements. The update is necessary to ensure that the Copermittees' local SSMPs are consistent with the changes that have been made to the Order's SSMP requirements. The requirement for the development/adoption of a Model SSMP has been removed since a model was completed and adopted in 2003.

The SSMP section of the Order has been reformatted for clarity. There are also some significant changes. Changes have been made in response to experience gained by the Orange County Storm Water program, USEPA program evaluations, recent BMP development and effectiveness studies, recent reports on the magnitude of problems caused by hydromodification, and reviews of annual reports and the ROWD submitted by the Copermittees.

[171] Orange County Storm Water Copermittees. *Drainage Area Management Plan (DAMP) 2007.* July 21, 2006. The 2007 DAMP was submitted to the Regional Board with the Report of Waste Discharge as part of the application for NPDES Permit reissuance.

In addition, the Order requires that a one-acre threshold be phased in over three years for the priority development category. This threshold was selected to be consistent with the Phase II NPDES regulations for small municipalities. The one-acre determination applies to the amount of ground area disturbed, not the total size of the parcel or project. Each Copermittee may also lower this threshold if desired.

Section F.1.d.(2) (Priority Development Project Categories) includes several changes to improve, simplify, and clarify the Priority Development Project categories.

The most significant change is that where a new Development Project feature, such as a parking lot, falls into a Priority Development Project Category, the entire project footprint is subject to SSMP requirements. This criterion was not included in Order No. R9-2002-0001. It is included, however, in the Model San Diego SSMP that was approved by the Regional Board in 2002. It is included in this Order because existing development inspections by Orange County municipalities show that facilities included in the Priority Development Project Categories routinely pose threats to water quality. This permit requirement will improve water quality and program efficiency by preventing future problems associated with partly treated storm water runoff from redevelopment sites. This approach to improving storm water runoff from existing developments is practicable because municipalities have a better ability to regulate new developments than existing developments.

Industrial sites and retail gasoline outlets have been added to the priority development categories. This heavy industrial category was not included in Order No. R9-2002-0001 because industrial NPDES requirements already establish storm water criteria. This category is included in the Order to be consistent with Phase II rules and to close loopholes. A discussion of retail gasoline outlets is below.

The criterion for commercial developments has been lowered to one acre from 100,000 square feet (2.3 acres). It is modified in order to be consistent with USEPA Phase II guidance, and to reflect the findings from Permittees that smaller commercial developments pose high threats to storm water discharges.

Housing and restaurant criteria have been clarified. The two housing development categories are now combined into one category that includes 10 or more housing units. In addition, requirements which specifically apply to restaurants have been combined in this section. The section has been modified to clarify that restaurants with less than 5,000 square feet of development are subject to SSMP requirements, except for the treatment control BMP and hydromodification control requirements. This is consistent with Order No. R9-2002-0001's approach for applying SSMP requirements to restaurants.

Section F.1.d.(2)(j) includes Retail Gasoline Outlets (RGOs) as a Priority Development Project category because RGOs are points of confluence for motor vehicles for automotive related services such as repair, refueling, tire inflation, and radiator fill-up. RGOs consequently produce significantly greater pollutant loadings of hydrocarbons and trace metals (including copper and zinc) than other developed areas. To meet the storm water MEP standard, source control and structural treatment BMPs are needed at RGOs that meet the following criteria: (a) 5,000 square feet or more of developed area, or (b) a projected average daily traffic of 100 or more vehicles per day. These are appropriate thresholds since development size and volume of traffic are good indicators of potential impacts of runoff from RGOs on receiving waters. RGOs were proposed, but not included in Order No. R9-2002-0001 pending guidance from the State Board in its review of the San Diego MS4 Permit, Order No. 2001-0001.

In State Board WQ Order No. 2000-11, the State Board removed RGOs as a SSMP category because the State Board found that RGOs were already heavily regulated and limited in their ability to construct infiltration devices or perform treatment. Order No. 2000-11 also acknowledged that a threshold (size, average daily traffic, etc.) appropriate to trigger SSMP requirements should be developed, and that specific findings regarding RGOs should be included in MS4 permits to justify the requirement.[172] The State Board also removed the RGO category from the San Diego County MS4 permit (Order No. 2001-01) because the Regional Board did not specifically address the issues raised in WQ Order No. 2000-11.

As discussed further below, the LARWQCB and the Regional Board have adequately addressed these issues. RGOs have been included as a SSMP category in the Los Angeles County MS4 permit (Order No. R4-01-182), the statewide general Phase II MS4 permit (WQ Order No. 2003-0005-DWQ), and the Regional Board Southern Riverside County MS4 permit (Order No. R9-2004-001). The State Board also addressed the inclusion of RGOs through the appeals of MS4 permits issued by the Los Angeles and San Francisco Bay Area Regional Boards. The State Board held a workshop addressing RGOs and identified RGOs as significant sources of pollutants. The State Board then dismissed the petitions for removal of RGOs from the SSMP requirements in the Los Angeles and San Francisco Bay Area MS4 permits.

Inexpensive and effective structural treatment BMPs which reduce storm water pollutants and control peak flow rates and velocities are available for use at RGOs. Studies have shown that some catch basin inserts can remove hydrocarbons and heavy metals, which are typical pollutants of concern at RGOs. Sand or media filters have also been found to be effective and available for use at RGOs. Site design measures to control flow include cisterns, small weirs, baffles, and redirecting roof runoff to pervious areas.

[172] State Board, 2000. Order WQ 2000-11.

No evidence has been provided to indicate that use of these structural BMPs at RGOs will pose a safety risk. In fact, filter BMPs have been installed at RGOs in some municipalities without apparent adverse safety effects. In addition, similar BMPs such as oil/water separators have been used for years by RGOs without safety problems.

Threshold - Studies indicate that runoff from RGOs contains similar pollutants to runoff from commercial parking lots. In precedential WQ Order 2000-11, the State Board determined that parking lots with a size threshold of 5,000 square feet or more is an appropriate SUSMP category. Based in part on the similarity of pollutants, the 5,000 square feet size threshold was also included for RGOs in the Order. In addition, other municipalities currently use similar size thresholds for RGOs when requiring design standards to mitigate storm water runoff. To provide additional flexibility for the Copermittees, another threshold of 100 or more motor vehicles ADT has been added to the Order. This threshold is based on requirements used in Washington and Oregon for what are considered “high use” sites. This is an appropriate threshold since vehicular traffic is a good indicator of the amount of pollutants generated at a site.

The Regional Board followed the State Board’s direction regarding RGOs by including the above discussion in this Fact Sheet, as well as a specific finding that justifies the regulation of runoff from RGOs that meet certain criteria. Considering all of the supporting documentation discussed above, it is appropriate to include RGOs as a Priority Development Project category.

Additional detailed supporting information can be found in the 2001 technical report titled *Retail Gasoline Outlets: New Development Design Standards for Mitigation of Storm Water Impacts* by the LARWQCB and the Regional Board.

Section F.1.d.(3) (Pollutants of Concern) requires Copermittees to update their procedures for identifying pollutants of concern for each Priority Development Project. This is important to do periodically because of changing water quality conditions and designations of impairments or areas of concern. Furthermore Copermittees continually learn more about pollutant-generating activities as they conduct inspections and investigations, and that information must be incorporated into the SSMP process.

Section F.1.d.(4) This Section has been modified to clarify some elements of low impact development. This section requires Copermittees to require or implement site design BMPs at Priority Development Projects in order to reduce the amount of polluted storm water runoff from those sites. The primary approach in site design BMPs is to limit the permanent loss of existing infiltration capacity because loss of infiltration is a major contributor to wet weather pollution discharges. General means to accomplish that goal include retaining natural infiltration areas of a site and limiting the amount of impervious surfaces. The Order does not require a specific or relative amount of pervious surfaces be added to a project. The Order seeks to retain on-site capture of the 85th percentile storm.

The site design BMP options listed in these sections are consistent with the site design BMPs currently required by the Copermittees in the Model WQMP. In the ROWD, the Copermittees propose to improve the process of selecting site design BMPs. Specifically, they propose to develop recommendations for incorporating low-impact design (LID) techniques and site design BMPs. However, the Model WQMP employs an open-ended approach to requirements for site design BMPs, requiring implementation of site design BMPs "where applicable and feasible" and "where appropriate." Unfortunately, this approach has proven to be ineffective in integrating site design BMPs in project designs. Audits conducted in 2005 of four Copermittees found that municipalities need to work with project applicants to improve the quality of site design BMPs.[173] As a result, the Order establishes two sets of site design BMP criteria.

First, section F.1.d.(4)(b) of the Order directs the Copermittees to require, rather than consider, new development projects to employ certain classes of site design BMPs. The required site design BMPs take advantage of features that are incorporated into the Priority Development Project, such as landscaping or walkways. It also requires that projects seek to maintain natural water drainage features rather than instinctively convey water in buried pipes and engineered ditches that eliminate natural water quality treatment functions. These types of site design BMPs are both effective and achievable. These requirements are consistent with the guidelines of Order No. R9-2002-0001 and both the 2003 and 2007 DAMPs.[174]

Next, section F.1.d.(4)(d) of the Order requires that LID BMPs be sized and designed to ensure onsite retention without runoff, of the volume of runoff produced from a 24-hour 85th percentile storm event. This is consistent with other municipal stormwater NPDES permits recently adopted by the Los Angeles and Santa Ana Regional Boards. In those permits, the stakeholders were involved in drafting the numerical performance criteria. The requirement for a numerical BMP design standard is well established for treatment control BMPs and is required in permits throughout the nation such as in Pennsylvania, West Virginia, Georgia, and Washington D.C. Since the 85th percentile storm event has previously been used as the numeric design standard for treatment control BMPs; the same size storm event can be applied as the numeric design standard for LID BMPs. According to information provided by the County of Orange, the 24 hour, 85th percentile rainfall is between 0.7 to 0.8 inches of rain for the majority of the area covered by this permit.

[173] Tetra Tech, Inc. 2005. Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.
[174]The 2003 and 2007 DAMPs include preserving natural drainage features as a recommended site design BMP requirement that was to be reviewed and used where applicable and feasible. The DAMPs note this as a way to mimic a site's natural hydrologic regime.

The retention of natural drainage features, such as ephemeral streams, wetlands, and depressions, can be particularly important because small tributaries are essential to the maintenance of the chemical, biological, and physical integrity of larger waterbodies.[175] The loss and modification of such natural water resources to accommodate post-development storm water management leads to direct and indirect adverse effects on water quality that are felt both on the project site and off the site within the watershed.[176,177,178] Effects to aquatic beneficial uses from altered drainage features can occur downstream and upstream. The length of upstream or downstream effect of channel modifications is dependant on the specific structure type and channel slope.[179] For instance, road culverts can act as partial barriers to upstream distribution of native aquatic macroinvertebrates in urban streams, while bridges can provide adequate passage.[180] As a result of the adverse effects to water quality and beneficial uses, the State of California nonpoint source pollution program management measures for urban areas includes limiting the destruction of natural drainage features and natural conveyance areas. [181]

Through its process of conditioning development projects under the CWA section 401 Water Quality Certification program, the Regional Board finds that the level of site design BMP implementation in the Order is feasible for all projects. This site design BMP requirement will help ensure that site design BMPs are implemented for new development projects. Site design BMPs are a critical component of storm water runoff management at new development projects, since the BMPs provide multiple benefits including preservation of hydrologic conditions, reduction of pollutant discharges, cost effectiveness, and green space.

[175] Aquatic scientists comment letter (April 10, 2003) on the Advanced Notice of Proposed Rulemaking (ANPRM) on the Clean Water Act Regulatory Definition of "Waters of the United States." (Docket ID No. OW-2002-0050). This letter is a synthesis of scientific information regarding ephemeral, intermittent, and headwater streams. It was written to USEPA by 85 leading aquatic scientists.
[176] Wright, Tiffany, et al. 2006. *Direct and Indirect Impacts of Urbanization on Wetland Quality.* Prepared by the Center for Watershed Protection for the USEPA Office of Wetlands, Oceans, an Watersheds. 81p. Available on-line at http://www.cwp.org
[177] Konrad, Christopher P. and Derek K. Booth, 2005. *Hydrologic Changes in Urban Streams and Their Ecological Significance.* American Fisheries Society Symposium. Vol. 45 pp.157-177.
[178] Coleman, Derrick, et al. 2005. *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams*. Technical Report No. 450 of the Southern California Coastal Water Research Project.
[179] Fischenich, J.C. 2001. "*Impacts of stabilization measures*," EMRRP Technical Notes Collection (ERDC TNEMRRP- SR-32), U.S. Army Engineer Research and Development Center, Vicksburg, MS. http://www.wes.army.mil/el/emrrp
[180] Blakely, Tanya J., et al. 2006. *Barriers To The Recovery Of Aquatic Insect Communities In Urban Streams* Freshwater Biology Vol. 51(9), 1634–1645.
[181] California Nonpoint Source Encyclopedia, Management Measure 3.1.b. Runoff from Developing Areas, Site Development and Management Measure 3.3.a. Runoff from Existing Development, Existing Development.

The site design BMP options listed do not need to be costly.[182] Some design options, such as concave vegetated surfaces or routing rooftop or walkway runoff to landscaped areas, are cost neutral.[183] Other site design BMPs, such as minimizing parking stall widths or use of efficient irrigation devices, are oftentimes already required. In addition, use of site design BMPs reduces storm water runoff quantity, allowing for treatment control BMPs and other storm water infrastructure on site to be smaller, therefore savings costs for both developers and municipalities.[184,185]

Because of the potential economic and environmental benefits of using low-impact development site design, the U.S. Department of Housing and Urban Development, Office of Policy Development and Research, developed "*The Practice of Low Impact Development (LID)*" to assist the housing industry during the land development process. [186] This document focuses specifically on technologies that affect both the cost impacts and environmental issues associated with land development. Much of the report focuses on storm water management because low-impact development storm water management systems can save capital costs for developers and maintenance costs for municipalities.[187] The executive summary of the HUD report notes:

> *This approach to land development, called Low Impact Development (LID), uses various land planning and design practices and technologies to simultaneously conserve and protect natural resource systems and reduce infrastructure costs. LID still allows land to be developed, but in a cost-effective manner that helps mitigate potential environmental impacts. LID is best suited for new, suburban development.*

Developers can use site and structure designs that reduce building footprints, decrease the amount of paved infrastructure, and provide for dispersed drainage and infiltration of runoff from impervious surfaces to reduce the effective impervious surface.[188] The concept of effective impervious surface is important, because when runoff from these surfaces is directed to pervious areas rather to an impervious drainage system (i.e., curbs, gutters, street surfaces, storm drain pipes), it can infiltrate, evaporate, or be taken up by vegetation, thereby reducing the total volume of storm water runoff leaving a site.

---

[182] USEPA, 2000. Low-Impact Development: A literature review. EPA-841-B-00-005. 35p.
[183] Bay Area Stormwater Management Agencies Association., 1999. Start at the Source. Forbes Custom Publishing. Available on-line at: http://www.scvurppp-w2k.com/basmaa_satsm.htm. pp. 149.
[184] National Association of Home Builders Research Center. *Builders Guide to Low Impact Development.* Available on-line at http://www.toolbase.org
[185] National Association of Home Builders Research Center. *Municipal Guide to Low Impact Development.* Available on-line at http://www.toolbase.org
[186] U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2003. *The Practice of Low Impact Development."* Prepared by: NAHB Research Center, Inc. Upper Marlboro, Maryland. Contract No. H-21314CA.
[187] Ibid. Executive Summary, p.x.
[188] Bay Area Stormwater Management Agencies Association. 2003. *Using Site Design Techniques to Meet Development Standards for Stormwater Quality*. Available on-line at: http://www.basmaa.org/

The Order continues to provide the Copermittees with flexibility in implementing site design BMP requirements by providing a LID BMP waiver program.

Section F.1.d.(5) (Source Control BMP Requirements) requires that Priority Development Projects implement minimum source control BMPs. This section has been added to provide more detail and clarify the Order's requirements for source control BMPs. The minimum source control BMPs listed in the section are consistent with the Model WQMP.

Section F.1.d.(6) (Treatment Control BMP Requirements) is consistent with Order No. R9-2002-0001, with two exceptions. First, the Order limits the selections of methods used to determine the appropriate volume of storm water runoff to be treated. The modification ensures that priority development project proponents utilize the most accurate information to determine the volume or flow of runoff which must be treated. Using detailed local rainfall data, the County of Orange has developed the 85th Percentile Precipitation Isopluvial Map, which exhibits the size of the 85th percentile storm event throughout Orange County.[189] Since this map uses detailed local rainfall data, it is more accurate for calculating the 85th percentile storm event than other methods which were included in Order No. R9-2002-0001. The other methods found in Order No. R9-2002-0001 were included as options to be used in the event that detailed accurate rainfall data did not exist for various locations within Orange County. The development of the 85th Percentile Precipitation Isopluvial Map makes these other less accurate methods superfluous. Therefore, these other methods for calculating the 85th percentile storm event have been removed from the current Order.

Second, the Order requires that treatment control BMPs selected for implementation at Priority Development Projects have a removal efficiency rating that is higher than the "low removal efficiency," as presented in the Model SSMP/WQMP. The requirement allows exceptions for those projects that, with a feasibility analysis, can justify the use of a treatment control BMP with a low removal efficiency for a Priority Development Project. This requirement is needed because to date, the Copermittees have generally approved low removal efficiency treatment control BMPs without justification or evidence that use of higher efficiency treatment BMPs was considered and found to be infeasible. Specifically, it has been found during audits of the Copermittees' SSMP programs that many SSMP reports do not adequately describe the selection of treatment control BMPs.[190] Moreover, USEPA's contractor Tetra Tech, Inc. recommends that "project proponents should begin with the treatment control that is most effective at removing the pollutants of concern […] and provide justification if that treatment control BMP is not selected."[191]

[189] The isopluvial map can be found as Exhibit 7.II in the Model WQMP.
[190] Tetra Tech, Inc. 2005. Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.
[191] Tetra Tech, Inc., 2005. Program Evaluation Report –San Diego Standard Urban Storm Water Mitigation Plan (SUSMP) Evaluation. P. 5.

In the ROWD, the Copermittees acknowledge the need for further attention to the selection and implementation of effective treatment BMPs. They propose to revise the model WQMP table of BMP effectiveness. The requirement is needed to provide clarification that selection of low efficiency treatment control BMPs over high efficiency BMPs without justification does not meet permit requirements and is not in compliance with the storm water MEP standard.

In addition, treatment control BMPs must be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors, such as mosquitoes, rodents, and flies. Related guidelines are identified in guidance from CASQA.[192] Additional considerations are outlined in publications from the California Department of Health Services and University of California Division of Agriculture and Natural Resources.[193]

Section F.1.d.(7). (Low-Impact Design BMP Waiver Program) allows Copermittees to develop a LID BMP waiver program, under which projects where it is technically infeasible to implement the required LID BMPs could substitute with treatment control BMPs and a mitigation project, payment into an in-lieu funding program, and/or watershed equivalent BMPs. Some sites may be technically infeasible to implement the required LID BMPs due to the site constraints. For this reason, the Regional Board has added to the Order a requirement for the Copermittees to develop such a program. The program would provide the opportunity for development projects to avoid partial or full LID BMP implementation in exchange for implementation of treatment control BMPs and mitigation. The program would maintain equal water quality benefits as properly implemented LID BMPs when partial LID BMPs are coupled with a mitigation project or in-lieu funding.

The Order includes specific minimum requirements so that the program will achieve similar water quality benefits. Any program which allows development projects to forgo LID BMP implementation must include provisions which will achieve similar water quality benefits. To ensure that this is the case for the LID BMP waiver program, minimum provisions for the program have been added to the Order

[192] For example, see the California Stormwater BMP Handbook guidelines for Extended Detention Basins (TC-22) at http://www.cabmphandbooks.org.
[193] Marco Metzger. "Managing Mosquitoes in Stormwater Treatment Devices." University of California Division of Agriculture and Natural Resources Publication No. 8125. Available at http://anrcatalog.ucdavis.edu.

Section F.1.d.(8). (BMP Design Standards) addresses a need for the Copermittees to develop and apply consistent criteria for the design and maintenance of structural treatment BMPs. Correct BMP design is critical to ensure that BMPs are effective and perform as intended. Without design criteria, there is no assurance that this will occur, since there is no standard for design or review. As an example, Ventura County has developed a BMP manual that includes standard design procedure forms for BMPs. Ventura County's *Technical Guidance Manual for Storm Water Quality Control Measures* is available at http://www.vcstormwater.org/ publications.htm."[194] California Stormwater Quality Association (CASQA) also confirms the necessity of design criteria when it includes such criteria in its New Development and Redevelopment BMP Handbook.[195] This issue is noted in the ROWD, and the Copermittees propose to develop standard design checklist/plans/details for selected source control and treatment BMPs.

Section F.1.d.(9). (Implementation process) requires the Copermittee to implement a process to verify compliance with SSMP requirements. As part of the SSMP, requires identification at what point in the planning process that projects must meet SUSMP requirements and what are roles/responsibilities of municipal departments. The intent of this requirement is to provide consistency in the application of the SSMPs between the Copermittees. This requirement was included in previous Order No. R9-2002-0001.

Section F.1.d.(10) (Annual Review of Treatment BMPs) requires Copermittees to keep their SSMPs up to date with BMP effectiveness studies for low-impact design and treatment control BMPs. The ROWD includes commitments to develop a library of BMP performance reports and to revise the model WQMP table for the latest information on BMPs. This requirement will ensure that two important types of information be included in those efforts: Site design BMPs and treatment BMPs that are assessed as part of contracts with the State Board and Regional Board. The later types of projects include those funded with Clean Beach Initiative grants and other grants. Projects funded with such state grants must include effectiveness assessments using a quality assurance plan. As a result, such studies generally provide reliable sources of local data and should be included in local SSMPs.

[194] Ibid.
[195] California Stormwater Quality Association, 2003. Stormwater Best Management Practice Handbook – New Development and Redevelopment.

Sections F.1.e and F.1.f. (BMP Verification and Treatment BMP Maintenance Tracking) are included in the Order to improve the effectiveness of the BMP requirements. They are included in response to findings from the Audits[196] and recommendations from USEPA.[197] The Copermittees recognize a need to improve the verification of post-construction BMPs. The 2007 DAMP proposes to verify 90 percent of WQMPs (including structural and non-structural BMPs) by inspection, self-certifications, surveys or other means. The Regional Board finds that 90 percent is a reasonable annual target, but considers inspections to be essential to achieve optimal results. Therefore, the Order requires high priority sites to be inspected annually, and allows other measures to be used for lower priority treatment control BMPs.

Section F.1.h. (Hydromodification) expands and clarifies current requirements for control of MS4 discharges to limit hydromodification effects caused by changes in runoff resulting from development and urbanization. The requirements are based on findings and recommendations of the Orange County Storm Water Program, the Stormwater Monitoring Coalition (SMC),[198,199] and the Storm Water Panel on Numeric Effluent Limits (Numeric Effluent Panel).[200] Added specificity is needed due to the current lack of a clear standard for controlling hydromodification resulting from development. More specific requirements are also warranted because hydromodification is increasingly recognized as a major factor affecting water quality and beneficial uses, and the Copermittees have proposed only vague and voluntary modifications to the Model WQMP. The Order is intended to ensure the intent of the proposed modifications is incorporated into each Copermittees' SSMP.

[196] The 2005 audits performed by Tetra Tech, Inc. found that cities are not tracking post-construction BMPs. The final audit report recommended (Section 2.1.2) that each city should develop a system to verify implementation and track post-construction BMPs to ensure that they are adequately maintained.
[197] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68845. USEPA recommends such practices in the Phase II storm water regulations, promoting "inspections during construction to verify BMPs are built as designed."
[198] Coleman, Derrick, et al. 2005. *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams.* Technical Report No. 450 of the Southern California Coastal Water Research Project.
[199] Stein, Eric and Susan Zaleski. 2005. Managing Runoff to Protect Natural Streams: The Latest Developments on Investigation and Management of Hydromodification in California. Proceedings of a special technical workshop co-sponsored by California Stormwater Quality Association (CASQA), Stormwater Monitoring Coalition (SMC), and University of Southern California Sea Grant (USC Sea Grant). Technical Report No. 475 of the Southern California Coastal Water Research Project.
[200] Storm Water Panel Recommendations to the California State Water Resources Control Board. 2006. The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities.

Hydromodification is the change in a watershed's runoff characteristics resulting from development, together with associated morphological changes to channels receiving the runoff. As the total area of impervious surfaces increases, infiltration of rainfall decreases, causing more water to run off the surface and at a higher velocity. Runoff from developed areas can produce erosive flows in channels under rainfall conditions which were not previously problematic. Moreover, runoff from developed areas increases the duration of time that channels are exposed to erosive flows. The increase in the volume of runoff and the length of time that erosive flows occur ultimately intensify sediment transport, causing changes in sediment transport characteristics and the hydraulic geometry (width, depth, and slope) of channels.[201]

These types of changes have been documented in southern California. It has been reported that researchers studying flood frequencies in Riverside County have found that increases in watershed imperviousness of only 9-22 percent can result in increases in peak flow rates for the two-year storm event of up to 100 percent.[202] Such changes in runoff have significant impacts on channel morphology. It has recently been found that ephemeral/intermittent channels in southern California appear to be more sensitive to changes in imperviousness than channels in other areas. Morphology of small channels in southern California was found to change with only 2-3 percent watershed imperviousness, as opposed to 7-10 percent watershed imperviousness in other parts of the nation.[203]

Effects of hydromodification are evident in southern Orange County and recognized by the Copermittees. Analyses of bioassessment data, for example, indicate that physical changes to stream channels caused by hydromodification are likely responsible, in part, for the low bioassessment scores in urbanized settings.[204] It is important to recognize that the physical changes are a direct result of MS4 discharges, but that two separate mechanisms are involved. First, is a change in the flow regime caused by the increase in impervious surfaces and loss of natural conveyance systems. Discharges to receiving waters from the MS4 outfalls do not mimic the natural discharges from former tributaries to that receiving water, and the change results in erosion. Second, the physical stream habitat in many places has been severely modified in order to efficiently convey those increased storm water discharges to the ocean. Where streams are hardened and/or buried to convey storm water, they cannot provide adequate water quality and other necessary conditions to support beneficial uses. Both of these issues are addressed in the Order.

[201] Santa Clara Valley Urban Runoff Pollution Prevention Program, 2005. Hydromodification Management Plan. P. 1-1.
[202] Schueler and Holland, 2000. Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66). The Practice of Watershed Protection.
[203] Coleman, et. al., 2005. Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams. P. iv.
[204] See Chapter 11 of the ROWD and the 2005-06 Unified Annual Report for the analyses.

The Copermittees' recognize the need to improve management of hydromodification. The ROWD proposes to revise the Model WQMP to incorporate additional information from ongoing hydromodification studies conducted by the SMC. The Order allows the Copermittees to adopt criteria consistent with future SMC findings in the development of their Hydromodification Management Plan (see below).

Section F.1.h. requires the Copermittees to submit a Hydromodification Management Plan (HMP) within two years of permit adoption. This is consistent with other Southern California MS4 permits and in direct response to comments from the USEPA on Tentative Order R9-2008-001.

Section F.1.h (1) describes several elements that must be included in the HMP. For example, the HMP must identify a method for assessing susceptibility of channel segments which receive runoff discharges from Priority Development Projects, and include a channel standard to ensure that the stability of the channel is not compromised as a result of discharges from the Priority Development Projects. The HMP must also identify a range of flows where Priority Development Projects could cause hydromodification effects and subsequent stream instability.

Additionally, the HMP must require Priority Development Projects to implement hydrologic control measures (such as LID or detention basins) to prevent hydromodification and resultant degradation of stream conditions downstream of project sites. To compare post-project flow rates and durations to pre-project flow rates and durations, the HMP must specify that the pre-developed (naturally occurring) flow rates and durations shall be used when assessing pre-project conditions, so that the naturally occurring hydrology is eventually restored.

In cases where a stream has been armored with concrete, rip rap, or other man-made materials, the HMP shall require the assessment of a comparable soft-bottom channel as the channel standard, as opposed to using the characteristics of the hardened channel as the channel standard. This is to ensure that hydromodification management measures are already in place should any portion of the hardened channel be returned to its natural state, thereby restoring the physical integrity of the creek and its Beneficial Uses. For this reason, the waiver provision for hydromodification management measures for projects discharging into hardened channels was deleted from the Tentative Order. The remaining exception is for projects that discharge storm water runoff into underground storm drains discharging directly into bays or the ocean and for projects discharging to waters where the entire channel bed and banks have been concrete lined all the way to ocean receiving waters.

The HMP must also include metrics for assessing impacts to downstream watercourses from Priority Development Projects, as well as assessing improvements to these watercourses. One metric that must be included is the Index of Biotic Integrity (IBI) score for benthic macroinvertebrates. This is because historic hydromodification

impacts, such as concrete lining and channelization, have impacted the natural physical habitat of urban streams resulting in low IBI scores. The Copermittee's 2006-2007 monitoring indicated decreased IBI scores in the urbanized watersheds. In the absence of water chemistry and toxicity impacts, these low scores were attributed to be a result of poor physical habitat conditions.[205] Therefore, the IBI score will be a useful metric in terms of assessing both impacts to streams from Priority Development Projects and improvements due to implementation of management measures.

In addition to the hydrologic control measures that must be included in the HMP to prevent or minimize hydromodification effects from Priority Development Projects, the HMP must also include additional measures to be used on Priority Development Projects based on a prioritized consideration of the following elements in this order: 1) site-design hydrologic control measures, 2) on-site management measures, 3) the use of regional controls upstream of receiving waters, and lastly, 4) in-stream controls (not to include reinforcement with non-naturally occurring materials). The suite of management measures must also include stream restoration as a viable option to achieve the channel standard and subsequently restore Beneficial Uses.

Section F.1.h (5) describes interim hydromodification criteria that must be implemented by the Copermittees within one year of adoption of the Tentative Order and concurrent to development of the local HMP. The values chosen for the interim criteria are those currently being implemented by Copermittees in the San Diego area.

Finally, the requirements included in section F.1.h do not supersede the requirements for LID presented in section F.1.d. (4). In certain situations, the requirements to incorporate LID will satisfy the requirements for hydromodification management. For example, detention basins are a common BMP used to manage high flow rates but behave hydrologically different than distributed systems used in LID. Using LID is a viable option for both accomplishing hydromodification management and pollutant load reductions.

F.2. Construction

The following legal authority applies to section F.2:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

[205] Orange County Copermittees, November 15, 2007. 2006-2007 Unified Annual Progress Report Program Effectiveness Assessment (San Diego Region).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D) provides that the proposed management program include "A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(1) provides that the proposed management program include "A description of procedures for site planning which incorporate consideration of potential water quality impacts."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(2) provides that the proposed management program include "A description of requirements for nonstructural and structural best management practices."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(3) provides that the proposed management program include "A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(4) provides that the proposed management program include "A description of appropriate educational and training measures for construction site operators."

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) provides that each Copermittee must demonstrate that it can control "through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from site of industrial activity."

Federal NPDES regulation 40 CFR 122.26(b)(14) provides that "The following categories of facilities are considered to be engaging in 'industrial activity' for the purposes of this subsection: […] (x) Construction activity including cleaning, grading and excavation activities […]."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Section F.2 has additions to ensure the protection of threatened and endangered species and requires the consideration of potential impacts from the use of Active Treatment Systems. These requirements were added to ensure additional protection of the Beneficial Uses of waters of the State.

Section F.2.a. (Ordinance Update) requires each Copermittee to review and update its grading and storm water ordinances as necessary to comply with the MS4 permit. By updating the grading and storm water ordinances, the Copermittees will have the necessary legal authority to require construction sites to implement effective BMPs that will reduce pollutant discharges to the maximum extent practicable. The Order allows the Copermittees 365 days to review and update their ordinances. The 365 days should be adequate to allow for the relatively minor changes that might be needed since their ordinances were last updated under Order No. R9-2002-0001.

Section F.2.b. (Source Identification) requires the Copermittees to develop and update a watershed based inventory of all construction sites regardless of size or ownership. This section has been modified to require the inventory be updated regularly, rather than annually. More frequent updates will ensure the Copermittees have a more accurate inventory of construction sites within their jurisdiction. A regularly updated inventory of active construction sites will assist the Copermittees in ensuring that all sites are inspected per Order requirements. The Order does not specify the frequency of updates, and instead relies on each Copermittee to develop updates appropriate to local construction activity. The 2007 DAMP proposes that the inventory be updated "at a minimum" prior to the start of the rainy season. Such a minimum standard may not be appropriate for each Copermittee. Failure to maintain a useful inventory would be a violation of the Order.

Section F.2.c. (Site Planning and Project Approval Process) requires Copermittees to incorporate consideration of potential water quality impacts prior to approval and issuance of construction and grading permits. The Copermittees[206] and our program evaluations in 2005[207] recommend that storm water requirements need to be better incorporated into the pre-construction process.

[206] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region), Section 7, New Development.
[207] Tetra Tech, Inc. 2005. Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.

This section now requires the Copermittees to review project proponents' runoff management plans for compliance with local regulations, policies, and procedures. USEPA recommends that it is often easier and more effective to incorporate storm water quality controls during the site plan review process or earlier.[208] In the Phase I storm water regulations, USEPA states that a primary control technique is good site planning.[209] USEPA goes on to say that the most efficient controls result when a comprehensive storm water management system is in place.[210] To determine if a construction site is in compliance with construction and grading ordinances and permits, USEPA states that the "MS4 operator should review the site plans submitted by the construction site operator before ground is broken."[211] Site plan review aids in compliance and enforcement efforts since it alerts the "MS4 operator early in the process to the planned use or non-use of proper BMPs and provides a way to track new construction activities."[212] During audits of Orange County Copermittee storm water programs, it was found that site plan and SWPPP review were inadequate and inconsistent.[213]

Section F.2.d. (BMP Implementation) includes modifications to the requirements for each Copermittee to designate and ensure implementation of a set of minimum BMPs at construction sites. These modifications are based on Regional Board findings and experience during implementation of Order No. R9-2002-0001.

[208] USEPA, 1992. Guidance 833-8-92-002. Section 6.3.2.1.
[209] Federal Register / Vol. 55, No. 222 / Friday, November 16, 1990 / Rules and Regulations. P. 48034.
[210] Ibid.
[211] USEPA, 2000. Guidance 833-R-00-002. Section 4.6.2.4, P. 4-30.
[212] Ibid., P. 4-31.
[213] Tetra Tech, Inc. 2005. Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.

Unlike Order No. R9-2002-0001, this Order does not require the Copermittee to designate a set of minimum BMPs for high, medium, and low threat to water quality construction sites. This change was made in recognition of most Copermittees' application of one consistent set of BMPs throughout their jurisdictions. The Copermittees also desire to move toward a risk-based approach to BMP requirements.[214] As a result, the Order requires a minimum set of BMPs to be designated for all sites and that enhanced BMPs, including advanced treatment systems, be designated for sites upstream of 303(d) impairments and ESAs. Advanced treatment has been effectively implemented extensively in the other states and in the Central Valley Region of California.[215] In addition, the Regional Board's inspectors have observed advanced treatment being effectively implemented at large sites greater than 100 acres and at small, less than 5 acre, in-fill sites. Advanced treatment is often necessary for Copermittees to ensure that discharges from construction sites are not causing or contributing to a violation of water quality standards. For example, the Basin Plan lists the water quality objective for turbidity as 20 NTU for all hydrologic areas and subareas except for the Coronado HA (10.10) and the Tijuana Valley (11.10). For certain construction sites with large slopes and exposed areas, the only technology that is likely to meet 20 NTU is advanced treatment combined with erosion and sediment controls. To ensure the MEP standard and water quality standards are met, the requirement for implementation of advanced treatment at high threat construction sites has been added to the Order, while still providing sufficient flexibility for each Copermittee's unique program.

[214] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region), Section 8, Construction
[215] SWRCB, 2004. Conference on Advanced Treatment at Construction Sites.

The Order does not include seasonal restrictions on grading. Seasonal restrictions on grading for storm water are difficult to implement due to the conflict between seasonal grading restrictions, endangered birds' breeding seasons and the seasonal passage of endangered salmonids; therefore the seasonal grading restrictions have not been included with the other BMPs in the Order. Found in southern California, the Least Bell's Vireo and the Coastal California Gnatcatcher are listed as federally endangered and threatened, respectively.[216] Permits issued by the California Department of Fish and Game (CDFG) restrict grading during these birds' breeding seasons, which is from April 10 to August 31 for the Least Bell's Vireo[217] and from February 15 to August 31 for the Coastal California Gnatcatcher.[218] Ideally storm water restrictions on grading would be during the wet season from October 1 through April 30.[219] Combined, these restrictions would limit construction grading to be during the month of September, which is infeasible. Section D.2.d of the Order still requires project proponents to minimize grading during the wet season and coincide grading with seasonal dry weather periods to the extent feasible.

Section F.2.e. (Inspections) establishes criteria for inspections based on risk factors including size, season, and location of the construction site. Modifications have been made to requirements of Order No. R9-2002-0001 based on the experience of the Copermittees and Regional Board construction programs.

The Order requires sites in active grading during the wet season that are over 30 acres be inspected every two weeks, rather than sites over 50 acres being inspected weekly. In south Orange County approximately 15 percent (34 sites) of construction sites over one acre are larger than 30 acres, whereas about 9 percent (21 sites) of sites are over 50 acres.[220] This may result in a net decrease of inspections of large sites, although more sites will be covered. The reduction in inspection frequency for sites greater than 50 acres is justified because the sites have generally improved their erosion and sediment control measures since adoption of Order No. R9-2002-0001. Biweekly inspections of these sites in the future should be sufficient to ensure compliance with local regulations.

[216] State of California, Department of Fish and Game, 2005. State and Federally Listed Endangered and Threatened Animals of California.
[217] United States Department of the Interior, Fish and Wildlife Service, 2001. Least Bell's Vireo Survey Guidelines.
[218] United States Department of the Interior, Fish and Wildlife Service, 1997. Coastal California Gnatcatcher (*Polioptila californica californica)* Presence/Absence Survey Guidelines.
[219] Regional Board, 2001. Order No. 2001-01, San Diego County MS4 Permit. Directive F.2.g.(2).
[220] Based on the State Board's database of sites covered by the Construction Storm Water General NPDES Permit, Order No. 99-08-DWQ. That general permit requires sites disturbing over one acre to file for coverage, so it provides a good basis for assessment.

Administrative Record Page No. 025436

The Order lowers the size of construction sites adjacent to or discharging directly to ESAs that receive scrutiny. Order No. R9-2002-0001 requires such sites five acres and more to be inspected weekly during the wet season. This Order requires such sites one acre and above to be inspected every two weeks during the wet season and once during August or September. The lower size threshold is consistent with Phase II storm water permits.

The Order omits Order No. R9-2002-0001's provision allowing a Copermittee to decrease the inspection frequency for high priority sites if the Copermittee certifies in writing to the Regional Board that they have recorded the site's Waste Discharge Identification Number, reviewed the site's Storm Water Pollution Prevention Plan (SWPPP), assured the site's SWPPP is in compliance, and assured the SWPPP is properly implemented at the site. Under Order No. R9-2002-0001, the Regional Board never received from any of the Copermittees a certification to decrease the inspection frequency at high priority sites. Since the certification process was never used, the language has been deleted from the Order.

This section also requires the Copermittees to track the number of inspections for each inventoried construction site. This requirement has been added to ensure that the Copermittees can demonstrate that construction sites are inspected at the minimum frequencies.

Section F.2.g.2 includes an additional requirement for notification to the Regional Board regarding construction sites has been added to this section. Copermittees are required to annually notify the Regional Board of construction sites that have suspected violations. This was added to enhance Regional Board and Permittee communication and coordination in regulating construction sites.

F.3 Existing Development

F.3.a. Municipal
The following legal authority applies to section D.3.a:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(1) provides that the proposed management program include "A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(3) provides that the proposed management program include "A description for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of de-icing activities."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(4) provides that the proposed management program include "A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(5) provides that the proposed management program include "A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(6) provides that the proposed management program include "A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Section F.3.a.2. (General BMP Implementation) requires the Copermittees to designate minimum BMPs for general municipal areas and activities, regardless of their threat to water quality. The requirement that different types of BMPs be designated for different threats to water quality categories of municipal areas and activities has been removed from the Order. This was done to help simplify and clarify the Order's requirements. BMPs required to be implemented at a site can now be based on the sources or activities present at the site. This is closer to the approach taken by the Copermittees in their JRMPs. Threat to water quality is used to determine inspection frequencies in section F.3.a.(7).

Section F.3.a.3, F.3.a.4, and F.3.a.5. (Specific BMP Implementation Categories) establishes requirements for specific categories of activities and areas. These are selected based on the CWA and findings of the Permittees in annual reports and ROWD that identify these activities as warranting special attention.

Pesticides, Herbicides, and Fertilizers. 40 CFR 122.26(d)(2)(iv)(A)(6) requires a description of a storm water program for pesticides, herbicides, and fertilizers. In addition, water quality data demonstrates widespread presence of such pollutants in receiving waters and MS4 discharges. In response to similar requirements of Order No. R9-2002-0001, the Copermittees have developed a specific model Integrated Pest Management, Pesticides, and Fertilizer guidelines.

Flood Control Structures. In order to more closely meet the intent of the federal regulations and guidance, the requirement has been modified. 40 CFR 122.26(d)(2)(iv)(A)(4) requires "A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible." Retrofitting flood control devices can reduce storm water pollutants and improve water quality. Copermittees have conducted many flood control retrofit projects, many of which have been partially funded with State grant awards.

USEPA expands on the federal provision with the following information: "Storm water management devices and structures that focus solely on water quantity are usually not designed to remove pollutants, and may sometimes harm aquatic habitat and aesthetic values" (1992). As flood control structures and other elements of the MS4 age and retrofitting becomes necessary, opportunities for water quality improvements arise.

Conveyance systems which take water quality consideration into account (such as grassed swales, vegetated detention ponds, etc.) can often cost less to construct than traditional concrete systems. Evaluation of the applicability of such systems during retrofitting must occur to ensure that pollutants in storm water runoff are reduced to the maximum extent practicable. USEPA supports utilizing BMPs for pollution reduction in flood management projects, stating that "The proposed management program must demonstrate that flood management projects take into account the effects on the water quality of receiving water bodies. […] Opportunities for pollutant reduction should be considered".[221]

[221] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. Washington D.C. EPA/833-B-92-002.

Existing Copermittee projects include two types of retrofits. The first type involves adding an engineered device to an existing structure in order to treat or divert runoff. Examples include catch basin inlet filters/screens, ultraviolet disinfection facilities, hydrodynamic separators, and diversions to the sanitary sewer. The second type involves re-installing pervious or natural treatment features to facilities. Examples include removing concrete portions of conveyances to create pervious conveyances; and creating treatment wetlands within flood detention facilities. The later type of retrofit is preferred by the Regional Board. They are likely more sustainable over the long-term because they may require less rigorous operation and maintenance than the former. They may also provide the additional benefit of providing significant or incidental opportunities for beneficial uses (e.g., recreation, wildlife, water supply).[222,223]

Sweeping of Municipal Areas. Sweeping municipal areas would likely be done in the absence of the Order. However, in certain cases it is an important component of a jurisdictional runoff management program. The Order contains requirements to ensure that the use of street sweeping is optimized for runoff applications if it is to be used and reported as a BMP. The criteria in the Order are taken from industry guidance as reported by the Permittees in the Aliso Creek watershed.[224]

Section F.3.a.(6). (Operation and Maintenance of MS4 and Structural Controls) requires the Copermittees to inspect and remove waste from their MS4s prior to the rainy season.

Maintenance is critical to the successful implementation of every storm water runoff management program. USEPA finds that "Lack of maintenance often limits the effectiveness of storm water structural controls such as detention/retention basins and infiltration devices. […] The proposed program should provide for maintenance logs and identify specific maintenance activities for each class of control, such as removing sediment from retention ponds every five years, cleaning catch basins annually, and removing litter from channels twice a year.

[222] Burton, Carmen et al. 2005. Assessing Water Source and Channel Type as Factors Affecting Benthic Macroinvertebrate and Periphyton Assemblages in the Highly Urbanized Santa Ana River Basin, California. American Fisheries Society Symposium. Vol.47 pp.239-262.
[223] Stromberg, Juliet C. 2001. Restoration of Riparian Vegetation in the South-Western United States: the importance of flow regimes and fluvial dynamism. Journal of Arid Environments. Vol49, pp.17-34.
[224] See 20th and 21st quarterly reports for the Aliso Creek watershed bacteria investigation, prepared by the Orange County Copermittees within the Aliso Creek watershed.

If maintenance activities are scheduled infrequently, inspections must be scheduled to ensure that the control is operating adequately. In cases where scheduled maintenance is not appropriate, maintenance should be based on inspections of the control structure or frequency of storm events. If maintenance depends on the results of inspections or if it occurs infrequently, the applicant must provide an inspection schedule. The applicant should also identify the municipal department(s) responsible for the maintenance program".[225] The MS4 maintenance requirements are based on the above USEPA recommendations. This maintenance will help ensure that structural controls are in adequate condition to be effective year round, but especially at the beginning of and throughout the rainy season.

Two requirements have been added to the Order that were not within Order No. 2002-0001. Subsection (3) allows a decreased inspection frequency for facilities that are routinely clean, and Subsection (4) requires trash to be removed from channels in a timely manner. Typically, Copermittees have reported annual or semi-annual creek cleanups as significant BMPs. The large volumes of trash reported to be removed during these events demonstrates the significant amount of trash that accumulates in the channels. In addition, storm water runoff is a leading contributor to the accumulation of trash and debris along the beaches of Orange County.[226] In order to reduce the effect of the trash, the Order requires that trash be removed more frequently.

Section F.3.a.(7). (Sewage Infiltration) requires the Copermittees to implement controls and measures to prevent and eliminate sewage infiltration or seepage from municipal sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4. This requirement is in Order No. R9-2002-0001 in the section on Illicit Discharge Detection and Elimination (section F.5.i).

Sections F.3.a.(8) and F.3.a.(9). (Inspections and Enforcement) establishes a minimum set of municipal areas and activities for oversight and inspection by the Copermittees and requires that Copermittees properly enforce runoff requirements at municipal areas and activities.

[225] USEPA, 1992. Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems. Washington D.C. EPA/833-B-92-002.
[226] Moore, S.L., D. Gregorio, M. Carreon, S B. Weisberg, and M. K. Leecaster. 2001. *Composition and distribution of beach debris in Orange County, California*. Marine Pollution Bulletin 42(3): 241-245..

F.3.b. Industrial and Commercial
The following legal authority applies to section F.3.b:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(C) provides that the proposed management program include "A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(C)(1) provides that the Copermittee must "identify priorities and procedures for inspections and establishing and implementing control measures for such discharges."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(C)(2) provides that the proposed management program shall "Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD5 , TSS, total phosphorus, total Kjeldhal nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv)."

Federal NPDES regulation 40 CFR 122.26(d)(2)(ii) provides that the Copermittee "Provide an inventory, organized by watershed of the name and address, and a description (such as Standard Industrial Classification [SIC] codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) provides that each Copermittee must demonstrate that it can control "through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from site of industrial activity."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A) provides that the Copermittee develop a proposed management program which includes "A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls."

Section F.3.b. (Industrial and Commercial) requires the Copermittees to implement an industrial and commercial program to reduce pollutants in storm water runoff from all industrial and commercial sites/sources. The industrial and commercial sections of Order No. 2002-0001 have been combined into one section in this Order. This change will streamline and simplify the Order, without negatively impacting water quality. This change is not unprecedented because industrial and commercial facilities are commonly addressed together. For example, the Southern Riverside County MS4 Permit[227] combined industrial and commercial programs into one section. In addition, in their Annual Reports and ROWD,[228] the Copermittees jointly address industrial and commercial components. USEPA contractor Tetra Tech also evaluated and reported on the industrial and commercial programs jointly during their program evaluations.[229]

Section F.3.b.(1)(a) (Source Identification) requires that building material retailers and storage, animal facilities, and power washing services be included in the Copermittees' inventory of commercial sites/sources. These activities have been identified annual MS4 program reports and quarterly Aliso Creek watershed reports as potentially significant sources of pollutants. This is not a significant change because Order No. R9-2002-0001 requires that any commercial site or source determined by a Copermittee to contribute a significant pollutant load to the MS4 be added to its inventory of commercial sites. Furthermore, the commercial BMP fact sheets developed by the Copermittees generally address the types of activities occurring at these facilities and practices.

[227] Regional Board, 2004. Order No. R9-2004-001; Riverside County MS4 Permit. Section H.2; P. 24.
[228] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region). Section 9.
[229] Tetra Tech, Inc., 2005. Program Evaluation Reports Orange County Storm Water Programs: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita.

The Order has revised requirements for identifying industrial sites/sources. The revised requirements are identical to those found in the Southern Riverside County MS4 permit.[230] USEPA requires the same identification: "Measures to reduce pollutants in storm water discharges to municipal separate storm sewers from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA)."[231] USEPA "also requires the municipal storm sewer permittee to describe a program to address industrial dischargers that are covered under the municipal storm sewer permit."[232] In order to more closely follow USEPA's guidance, this Order also includes operating and closed landfills, and hazardous waste treatment, disposal, storage and recovery facilities.

Section F.3.b.3. (Mobile Businesses) requires each Copermittee to develop and implement a program to reduce the discharge of storm water pollutants from mobile businesses to the MEP and to prevent the discharge of non-storm water. Mobile businesses are service industries that travel to the customer to perform the service rather than the customer traveling to the business to receive the service. Examples of mobile businesses are power washing, mobile vehicle washers, carpet cleaners, port-a-potty servicing, pool and fountain cleaning, mobile pet groomers, and landscapers. These mobile services produce waste streams that could potentially impact water quality if appropriate BMPs are not implemented.

Order No. R9-2002-0001 also requires BMP implementation for certain mobile businesses (e.g., mobile vehicle washing and mobile carpet cleaning). These storm water requirements of Order No. R9-2009-0002 are not significantly different from the existing requirements. The Order specifies mobile businesses must prevent non storm water dry weather flows from entering the MS4 (see C.1.b) for special attention based on reports from the Copermittees that mobile businesses have been difficult to control with existing programs.

Mobile businesses present a unique difficulty in storm water regulation. Due to the transient nature of the business, the regular, effective practice of unannounced inspections is difficult to implement. Also, tracking these mobile businesses is difficult because they are often not permitted or licensed and their services cross Copermittee jurisdictions. Mobile businesses that operate within a municipality may be based in another municipality or even outside the Region. The Order takes into account the difficulties in regulating mobile businesses.

Because BMPs have been developed already, but communication with mobile businesses may be difficult, the Order provides broad flexibility to the Copermittees for developing a targeted program within the Commercial portion of each JRMP.

[230] Regional Board, 2004. Order No. R9-2004-001; Riverside County MS4 Permit. Section H.2.b)(2); P. 25.
[231] Federal Register / Vol. 55, No. 222 / Friday, November 16, 1990 / Rules and Regulations. P. 48056.
[232] Ibid.

Section F.3.b.4. (Inspections) includes requirements for inspections of industrial and commercial sites/sources. The Order is similar to the Southern Riverside County MS4 permit[233] in requiring that inspections check for coverage under the General Industrial Permit; assessment of compliance with Copermittee ordinances and permits related to storm water and non-storm water runoff; assessment of BMP implementation, maintenance, and effectiveness; visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff; and education and outreach on storm water pollution prevention. The Order also requires that inspections include review of BMP implementation plans if the site uses or is required to use such a plan, and the review of facility monitoring data if the site monitors its runoff. Order No. 2002-0001 did not contain requirements for inspection procedures.

Changes in the Order's requirements for inspection procedures mimic USEPA's guidance: "Site inspections should include (1) an evaluation of the pollution prevention plan and any other pertinent documents, and (2) an onsite visual inspection of the facility to evaluate the potential for discharges of contaminated storm water from the site and to assess the effectiveness of the pollution prevention plan."[234] In 1999, USEPA "recognized visual inspection as a baseline BMP for over 10 years," and "visual inspections are an effective way to identify a variety of problems. Correcting these problems can improve the water quality of the receiving water."[235] Most, if not all, of the Order's procedures are being conducted by the Copermittees that follow the Model Existing Development Program of the DAMP.

With the exception of restaurants, the Order allows Copermittees to establish inspection frequencies, as long as at least 20 percent of the sites are inspected annually. Restaurants are now required to be inspected annually. Inspection frequencies in the Order have been modified from Order No. R9-2002-0001. Order No. R9-2002-0001 specifies frequencies for inspecting industrial sites based on threat to water quality and requires high priority commercial sites to be inspected as needed. Copermittees have been inspecting industrial sites according to Order No. R9-2002-0001. The Copermittees have been inspecting restaurants annually as part of the County Health Department inspections. For other commercial sites, the Copermittees have been focusing annual activities on certain commercial sectors, such as automobiles, with the goal of inspecting every high priority site at least once during the permit term. This change is not considered significant because it should allow the Copermittees to continue existing programs.

[233] Regional Board, 2004. Order No. R9-2004-001; Riverside County MS4 Permit. Section H.2.d)(3);
[234] USEPA, 1992. Guidance 833-8-92-002, section 6.3.3.4 "Inspection and Monitoring".
[235] USEPA, 1999. 832-F-99-046, "Storm Water Management Fact Sheet – Visual Inspection".

Reports from the Aliso Creek watershed Copermittees demonstrate that as-needed inspections for restaurants means at least annually. Restaurants have been found to present many threats to water quality and standard educational efforts are not effective because restaurants are subject to frequent management changes. For these reasons, the Order requires restaurants to be inspected annually.

An additional notification to the Regional Board regarding industrial sites has been added. Copermittees are required to annually notify the Regional Board of industrial sites that have suspected violations. This was added to enhance Regional Board and Permittee communication and coordination in regulating industrial sites.

Section F.3.b.(6). (Training and Education) requires training and education measures generally consistent with the existing storm water programs. One distinction is that the Order requires each Copermittee to notify the owner/operator of each inventoried industrial and commercial site/source of the BMP requirements applicable to the site/source. This requirement is necessary to ensure that the owners and operators of commercial sites stay informed of appropriate BMPs. This is especially important because sites may be inspected as little as once every five years.

Section F.3.c. (Residential Component)
The following legal authority applies to section F.3.c:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A) provides that the Copermittee develop a proposed management program which includes "A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Section F.3.c (Residential Component) moves the common interest areas / homeowners' association component and the requirement for proper management of used oil, toxic materials, and other household hazardous wastes to the residential section of the Order, since these requirements generally apply to residential areas. These changes improve the organization of the Order and have no net effect on its implementation and enforcement. Other requirements for prioritization, BMP implementation, and enforcement are consistent with Order No. R9-2002-01.

Section F.3.d. (Retrofitting Existing Development)

Legal Authority: The legal authority for retrofitting existing development is the same legal authority as that identified for municipal, industrial, commercial and residential development sections (See fact sheet discussion on those sections, F.3.a – c). In particular, CWA sections 402(p)(3)(B)(ii-iii), and CWC section 13377 give the Regional Board the legal authority to require retrofitting of existing development.

A section has been added to require the retrofit of existing development (see Finding D.3.i and Discussion). This section contains specific requirements for the retrofit process. Retrofitting existing development is a widespread practice across the United States. Successful retrofitting programs have been implemented in such diverse locations as Seattle, Washington[236]; Portland Oregon[237], Santa Monica, California[238]; Kansas City, Kansas[239]; and Montgomery County, MD[240]. When appropriately applied as the draft Tentative Order, retrofitting existing development meets the maximum extent practicable standard.

Existing BMPs are not sufficient, as evidenced by 303(d) listings and exceedances of Water Quality Objectives from the Copermittees monitoring reports. More advanced BMPs, including the retrofitting of existing development with LID, are part of the iterative process. Previous permits limited the requirement of treatment control BMPs to new development and redevelopment. Based on the current rate of redevelopment compared to existing BMPs, the use of LID only on new and redevelopment will not adequately address current water quality problems, including downstream hydromodification. Retrofitting existing development is practicable for a municipality through a systematic evaluation, prioritization and implementation plan focused on impaired water bodies, pollutants of concern, areas of downstream hydromodification, feasibility and effective communication and cooperation with private property owners.

[236] SEA Street, http://www.seattle.gov/dpd/Planning/CityDesign/What_We_Do/Outreach/Folio/DPDS_008014.asp
[237] Clean River Rewards, http://www.portlandonline.com/BES/index.cfm?c=edeef
[238] City of Santa Monica, Urban Runoff program, http://www.smgov.net/Departments/OSE/categories/content.aspx?id=4007
[239] 10,000 Rain Gardens, http://www.rainkc.com/
[240] Rainscapes, http://www.montgomerycountymd.gov/Content/DEP/Rainscapes/home.html

Administrative Record Page No. 025447

F.4. Illicit Discharge Detection and Elimination

The following legal authority applies to section F.4:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B) provides that the proposed management program "shall be based on a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Copermittee include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(2) provides that the Copermittee include in its proposed management program "a description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(3) provides that the Copermittee include in its proposed management program "procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B)(4) provides that the Copermittee include in its proposed management program "a description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B)(5) provides that the Copermittee include in its proposed management program "a description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B)(6) provides that the Copermittee include in its proposed management program "a description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials."

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B)(7) provides that the Copermittee include in its proposed management program "a description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary."

Section F.4.a-b. (Prevent and Detect Illicit Discharges) requires the Copermittees to implement a program to actively seek and eliminate illicit connections and discharges (IC/ID). Additional wording has been added to this section to clarify and ensure that all appropriate (i.e., field personnel) municipal personnel are utilized in the program to observe and report these illicit discharges and connections. requirement has been added requiring submittal of the GIS layers of the MS4 map within 365 days of Order adoption.

Section F.4.e (Investigations) requires the Copermittees to conduct follow up investigations and inspect portions of the MS4 for illicit discharges and connections, based on dry weather effluent analytical monitoring results. The section also requires the Copermittees to establish criteria for triggering follow up investigations. Additional language has been added to this section to clarify the minimum level of effort and timeframes for follow up investigations when dry weather limitations are exceeded. Timely investigation and follow up of exceedances is necessary to identify sources of illicit discharges, especially since many of the discharges are transitory. The requirements for a 48-hour minimum response time when action levels are exceeded and for immediate response to obvious illicit discharges is necessary to ensure timely response by the Copermittees.

The Copermittees currently use action levels to facilitate the determination of when source investigation studies are warranted based on data from the dry-weather monitoring program. One set of criteria is based on regional averages of constituent concentrations that were developed based on randomly selected storm drains. Another set of criteria is based on trends at a particular station. These are reasonable criteria if decision-makers are properly trained and action levels set by the County are in compliance with dry weather non-storm water action levels as required in Section C. The ability of the local managers to interpret dry-weather monitoring data collected by the County has greatly improved in the last two years, and continued training is required in section F.4.i.

Section F.4.h. (Spill Response) requires each Copermittee to implement measures to prevent and respond to spills into its MS4. These requirements are similar to Order No. R9-2002-0001 and based on federal regulations at 40 CFR 122.26(d)(2)(iv)(B)(4). Those federal NPDES regulations clearly require that owners and operators of MS4s have procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer.

The Tentative Order includes sewage and non-sewage spills in the requirement for spill prevention and response. Federal regulations clearly define sewage as an illicit discharge that must be addressed by municipalities (see Phase II Final Rule, p.68758). Sewage is an illicit discharge to the MS4 that threatens public health. As such, the Copermittees must implement measures to prevent sewage from entering the MS4 system and must respond to illicit discharges that have entered the system. This section has been revised to clarify that management measures and procedures must be implemented to prevent, respond to, and cleanup spills.

This same requirement was adopted by the Regional Board in Order No, 2002-0001, but was subsequently stayed by the State Board in Order WQO 2002-0014. The City of Mission Viejo challenged the requirement to prevent and respond to sewage spills on the grounds that since the sanitary sewer systems in the City are operated by three water districts already regulated by a NPDES permit from the Regional Board, this requirement would cause delayed spill responses as the City and agencies try to determine jurisdiction and responsibilities. The State Board found that the costs of this requirement did not constitute harm, but agreed that harm could ensue from potential response delay and confusion. Although the entire permit requirement was stayed, neither the State Board, nor the Petitioner discussed spills other than sewage.

Subsequently, the Copermittees and the local sewer agencies have developed mature relationships and implemented procedures for spill response and sewage spill response.[241]. As a result, the concerns expressed by the State Water Board are no longer warranted. The Model Sewage Spill Response Procedure is outlined in the Copermittees' Proposed 2007 Drainage Area Management Plan (DAMP). According to the 2007 DAMP, regardless of where the spill originates, if the spill has entered or may enter the storm drain system, the Copermittees respond to assist with the cleanup and remediation of the area.

Only three Permittees (Laguna Beach, San Clemente, and San Juan Capistrano) own or operate their own sewage collection systems, yet all Copermittees implement the programs for spill response. For the Copermittees that do not own or operate sewage systems, the Regional Board expects that they will continue to respond appropriately to reported or identified spills to the MS4 system.

[241] Sections 10.2.4 and 10.2.5 in the 2007 DAMP.

Administrative Record Page No. 025450

Section F.3.a.7 of the Tentative Order includes requirements for measures that must be taken to prevent sewage spills. Examples of measures being implemented by Copermittees include inspections of fats, oils, and grease management at restaurants. Other preventative measures can be implemented during routine planning efforts for new development and redevelopment projects. Similarly, building permit inspections should be used to verify the integrity of the sanitary and storm sewer infrastructure and ensure that cross-connections between the two are avoided.

G. Watershed Runoff Management Programs

The following legal authority applies to section G:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(a)(3)(ii) states: "The Director may […] issue distinct permits for appropriate categories of discharges […] including, but not limited to […] all discharges within a system that discharge to the same watershed […]"

Federal NPDES regulations 40 CFR 122.26(a)(3)(v) states: "Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas [watersheds] which contribute storm water to the system."

Federal NPDES regulation 40 CFR 122.26(a)(5) states: "The Director may issue permits for municipal separate storm sewers that are designated under paragraph (a)91)(v) of this section on a system-wide basis, a jurisdiction-wide basis, watershed basis, or other appropriate basis."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv) states: "Proposed programs may impose controls on a system-wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls."

Section G. (Watershed Runoff Management Program) requires Copermittees to continue implementation of their watershed runoff management programs (WRMPs), however the implementation approach has changed. Order No. R9-2002-01 required watershed RMPs to include a collaborative strategy to abate the sources and reduce the discharges causing high priority water quality problems. This strategy was to guide Watershed Copermittee's selection and implementation of Watershed Activities, so that the activities selected and implemented would remove that pollutant contribution responsible for the identified high priority water quality problem. Outcomes of these requirements were not able to demonstrate improvements to water quality.

Revised language in Order R9-2009-002 attempts to focus watershed copermittee's efforts and resources on addressing the highest water quality problems in the watershed by focusing attention on the health of the receiving water body and the most efficient use of the Watershed Copermittee's time and resources. Order R9-2009-002 requires the Watershed Copermittee's to follow a workplan approach towards assessing receiving water body conditions, prioritizing the Watershed Management Area's (WMAs) highest priority water quality problems, implementing effective BMPs, and measuring water quality improvement in the receiving water.

G1. (Lead Watershed Copermittee Identification) requires the watershed copermittee's to identify a Lead Watershed Copermittee for their WMA.

This requirement is the same to that found in Order 2002-01.

G.2 a-f. (Watershed Workplan) requires the Watershed Copermittees to develop and implement a collective watershed strategy to assess and prioritize the water quality problems within the watershed's receiving waters, identify and model sources of the highest priority water quality problem(s), develop a watershed-wide BMP implementation strategy to abate highest priority water quality problems, and a monitoring strategy to evaluate BMP effectiveness and changing water quality prioritization in the WMA. Development of a workplan rather than watershed activities will allow the Copermittees flexibility to iteratively modify their watershed strategy over the course of future planning years as priorities change.

G.3. Watershed Workplan Implementation – Watershed Copermittee's shall begin implementing the Watershed Workplan within 30-days of approval by the Regional Board Executive Officer. Since the Copermittees are already familiar with the watershed program requirements implementing the watershed workplan within 30-days of approval by the Regional Board Executive Officer is reasonable.

G.4. Copermittee Collaboration – Watershed Copermittees shall collaborate to develop and implement the Watershed Workplan. Watershed Copermittee collaboration shall include frequent regularly scheduled meetings.

This requirement is the same to that found in Order 2002-01.

G.5. Public Participation – Watershed Copermittees shall implement a watershed-specific public participation mechanism within each watershed. A required component of the watershed-specific public participation shall be a minimum 30-day public review of the Watershed Workplan. Opportunity for the public to review and comment on the Watershed Workplan must occur before the workplan is implemented.

This requirement is similar to that found in Order 2002-01.

G.6. Watershed Workplan Review and Updates **–** Watershed Copermittees shall

Administrative Record Page No. 025453

review and update the Watershed Workplan annually to identify need changes to the prioritized water quality problem(s) listed in the workplan. All updates to the Watershed Workplan shall be presented during an Annual Watershed Review Meeting. Annual Watershed Review Meetings shall be conducted by the Watershed Copermittees, open to the public and adequately noticed, and occur once every calendar year. Individual Watershed Copermittees shall also review and modify their jurisdictional programs and JRMP Annual Reports, as necessary, so that they are consistent with the updated Watershed Workplan.

This section requires the copermittee's to review and update their workplan each year to incorporate changing priorities and evolving watershed strategies. This requirement is meant to take the place of Order No. 2002-01 requirement to submit Watershed Annual Reports.

G.7. Aliso Creek Watershed RMP Provisions. This requirement is the same to that found in Order 2002-01.

H. Fiscal Analysis

The following legal authority applies to section H:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(vi) provides that "[The Copermittee must submit] for each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2)(iii) and (iv) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds."

Section H has been expanded in order to develop more useful and meaningful fiscal reporting. The Copermittees have identified a need to assess the current fiscal reporting process and have proposed to prepare a fiscal reporting strategy to better define the expenditure and budget line items included in the fiscal reports.[242] The Regional Board agrees that the process should be improved. A revamped fiscal reporting strategy will provide the Regional Board and the Copermittees with better capability to manage performance of the programs.

The Copermittees' effort is expected to provide standardization of reporting so that figures between Copermittees are comparable, which is one of many types of information which can be used by the Regional Board to better understand Copermittee program implementation. Standardization and comparison of fiscal analysis reporting is supported by the State Board funded NPDES Stormwater Cost Survey, which finds that "standards for reporting costs and stormwater activities are needed to allow accurate cost comparisons to be made between stormwater activities."[243] This document also provides guidance regarding categorization of expenditures for tracking and reporting.

The Order establishes criterion for when Copermittees must add narrative evaluations to the tables. This will address some of the variability in reporting and will provide the public and Regional Board with improved understanding of how resources are shifted in response to annual assessments. This will also help ensure that projected annual costs adequately reflect planned program modifications described in the annual reports.

[242] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region), section 2.3.4.
[243] Currier, et al., 2005. *NPDES Storm Water Cost Survey Final Report*. Prepared for California State Water Resources Control Board by Office of Water Programs, California State University, Sacramento. P. 63.

The Regional Board has chosen not to require a description of fiscal benefits realized from implementation of the storm water protection program. This is a recommendation from the National Association of Flood and Stormwater Management Agencies.[244] For instance, the current fiscal assessment does not address city-wide fiscal benefits of protection (e.g., public health, tourism, property values, economic activity, beneficial uses, etc.), even though many costs currently reported to the Regional Board are for related activities. This type of assessment may help Copermittees improve the allocation of resources and it may help the Copermittees secure adequate funding for the program. Finally, it will provide a clearer picture of the storm water and non-storm water runoff program to the public and Regional Board. However, qualitative assessments could be overly subjective and most Copermittees likely lack the ability to provide accurate quantitative assessments. The Regional Board encourages Copermittees to consider means for conducting assessments of fiscal benefits derived from the programs. Such assessments could be conducted on a regional scale similar to studies of program costs conducted by the State Water Board[245] or community indicators by the Community Indicators Project.[246]

Currently, each Orange County municipality's annual report includes a table based on a template developed by the principal Copermittee. The template was meant to facilitate reporting consistency among the 13 Copermittees. The annual report table contains estimates of spending during the reported period and estimates of the next year's spending. The tables separate capital costs from operations and maintenance costs and are arranged by program element. In addition to the tables, each municipality reports on the sources of the funds, (e.g., general fund, special fee, grants, etc.) to demonstrate that resources have been secured. There is very heavy reliance on general funds.

Review of the fiscal analysis tables included in the annual reports has not been as straightforward as expected, and the value of the information is moderate. Generally, questions regarding the financial reporting process of individual Permittees have been adequately resolved during meetings to discuss the annual reports. Based on those meetings, the Regional Board staff has found that cities do not use consistent methods to fill in the tables because they use different accounting and budgeting processes, and certain stormwater program expenditures are not easily categorized into the table formats. Furthermore, stormwater permit-related activities involve several departments, which makes it difficult for the storm water manager to gather and decipher actual costs.

[244] National Association of Flood and Stormwater Management Agencies. 2006. *Guidance for Municipal Stormwater Funding.* Prepared under a grant provided by the USEPA.
[245] State Water Board, 2005. NPDES Stormwater Cost Survey.
[246] Orange County 2006 Community Indicators Project. 2006. Sponsored by the County of Orange, the Orange County Business Council, and the Children and Families Commission of Orange County. Available on-line at www.oc.ca.gov/ceocommunity.asp

Administrative Record Page No. 025456

These issues also make it difficult for the Copermittees to accurately compartmentalize expenditures within the format. The Copermittees are aware of the reporting discrepancies and have planned to modify the reporting template and guidelines. As a result, the current financial reporting provides estimates at best and cannot be reliably used to compare program implementation among most municipalities.

I. Total Maximum Daily Loads

This section has been added to address any TMDLs that are adopted by the Regional Board. See Finding E.10 and Discussion.

J. Program Effectiveness Component

The following legal authority applies to section J:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(d)(2)(v) provides that the Copermittees must include "Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water." Under Federal NPDES regulation 40 CFR 122.42(c) applicants must provide annual reports on the progress of their storm water management programs.

Section J.1 (jurisdictional program effectiveness assessments) of the Order requires the Copermittees to assess the effectiveness of the implementation of their jurisdictional programs and activities. The section requires that the effectiveness strategy of the programs be designed around four classes of objectives and that the results are used to direct program modifications. The section does not specify the assessments to be conducted, but does require that assessment measures conform to the guidance developed by the California Storm Water Quality Association (CASQA). The Orange County Storm Water Program is supportive of the CASQA effort, and use of CASQA assessment techniques is consistent with the methodology proposed in the ROWD.[247] [248]

The section is also consistent with the plan of the Copermittees to improve the efficacy of the assessment process.[249] The Copermittees currently report a series of metrics for spatial and temporal assessments across the County. The Program Effectiveness requirements of the Order provide the Copermittees with the framework for improving their standard assessment metrics.

[247] The structure of planned program effectiveness is proposed in section 1.2.2 of the 2007 ROWD. The ROWD then identifies current and potential assessment outcome levels within each major program chapter (e.g., new development, construction, etc.).
[248] CASQA 2007. Municipal Stormwater Program Effectiveness Assessment Guidance.
[249] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region), section 3.3.2.

The Order provides focus to the assessment methodology by requiring that impaired waterbodies and environmentally-sensitive areas are specifically addressed. In this way, the high priority water quality issues will receive a high level of attention, consistent with USEPA and CASQA guidance for prioritization. The Order provides flexibility to establish the actual metrics for each assessment outcome level. The Order also provides the Copermittees flexibility to develop objectives for the general program components based on the CASQA guidance, as is proposed in the ROWD and DAMP.

In addition, Section J.1 requires that an effectiveness assessment strategy is developed and implemented in response to actions taken by a Copermittee to comply with Section A.3 (Prohibitions and Receiving Water Limitations) of the Order. Section A.3 outlines the procedure for addressing instances when jurisdictional programs implement control actions in response to determinations that discharges from the MS4 are causing or contributing to violations of water quality standards.

This section includes a requirement for the Copermittees to develop and implement a workplan identifying and addressing the highest priority issues in the watershed. The workplan requirement in the JRMP section has been added to ensure Copermittees are allocating resources and effort to address priority problems and pollutants identified in the watershed analysis. This section has been added to ensure Copermittees use the annual watershed water quality assessment to asses, adjust and tailor their JRMP programs.

Section J.2 (program modification) of the Order requires the Copermittees to improve jurisdictional activities or BMPs when they are found to be ineffective or when water quality impairments are continuing. This requirement fulfills the purpose of conducting effectiveness assessments – to improve and refine the Copermittees' programs. The requirement is consistent with USEPA's Phase II regulations, which state: "If the permittee determines that its original combination of BMPs are not adequate to achieve the objectives of the municipal program, the MS4 should revise its program to implement BMPs that are adequate […]."[250]

Section J.3 (reporting) of the Order describes the information required to be submitted in jurisdictional annual reports pertaining to program effectiveness assessments, review, and response. The reporting will demonstrate whether Copermittees have appropriately responded to the effectiveness assessments.

[250] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68762.

K. Reporting

The following legal authority applies to section K:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.42(c) requires that "The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer system that has been designated by the director under § 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include: (1) The status of implementing the components of the storm water management program that are established as permit conditions; (2) Proposed changes to the storm water management program that are established as permit condition. Such proposed changes shall be consistent with § 122.26(d)(2)(iii) of this part; (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under § 122.26(d)(2)(iv) and (d)(2)(v) of this part; (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; (5) Annual expenditures and budget for year following each annual report; (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; (7) Identification of water quality improvements or degradation."

California Water Code section 13267 provides that "the Regional Board may require than any person who has discharged […] shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires."

Section K.1 (Jurisdictional Runoff Management Plans and Watershed Workplans) outlines the process and due dates for submitting plans. The information to be included in the Jurisdictional and Watershed plans must be sufficient to demonstrate the capacity to implement the requirements of Section G and Section J, respectively, of the Order.

Two general modifications from Order No. R9-2002-0001 result in reduced reporting effort by the Copermittees. First, in many cases, the requirements of the Order should not necessitate a complete rewrite of the plans, as was basically done in 2003. Only sections of the Order which are new or have been significantly changed should warrant rewriting of plans' sections. Second, the WRMP annual reporting is no longer due in January. Annual reporting will occur during a watershed review meeting conducted some time during the calendar year. The Regional Board plans to work with the Copermittees and provide guidance regarding where JRMPs must be updated in accordance with the Order. This will help ensure that rewriting, reporting, and review efforts are minimized.

Administrative Record Page No. 025460

The reporting requirements include two significant additions. The first addition is a summary reporting checklist which has been added to the reporting requirements. The checklist has been added to ensure that Copermittees evaluate and demonstrate compliance with all requirements in the Order.
Section K.2 (Other Required Reports) include requirements for information to be included in the SSMP update and the Report of Waste Discharge for the next permit reissuance. The Order requires submittal of a ROWD prior to the expiration of the Order. The section identifies the minimum information to be included in the ROWD, based on USEPA's May 17, 1996 guidance "Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems."

Section K.3 (Annual Reports) outlines the process and roles of the Copermittees for developing and submitting the JRMP annual report. Information to be included in the annual reports is described in Section K.3.a.3. The due dates have been changed. The JRMP is due approximately six weeks earlier than under Order No. R9-2002-0001. This change is necessary because the existing timelines prevented efficient response by the Copermittees to comments from the Regional Board and the Copermittees' own review. However, the Copermittees may propose alternate reporting criteria and schedules, as part of their updated JRMP, for the Executive Officer's acceptance.

Each Copermittee is required to maintain records demonstrating that Permit activity requirements have been met, which allows the Regional Board to confirm compliance as needed, such as via inspections, program audits, or requests for information per California Water Code Sections 13225 and 13267.

Reporting requirements in the Order focus on results and responses to the effectiveness assessments conducted by the Copermittees. This will allow the Regional Board to determine how appropriately municipalities adapt and tailor their programs to findings from activities and monitoring results. Assessment of progress toward meeting the objectives is possible because the data collected by the Copermittees under Order No. R9-2002-0001 can be used to establish baseline conditions. Compared to activity-based reporting, this will greatly enhance the ability of the Regional Board, Copermittees, and the public to determine whether the programs are successful.

The Order reduces the amount of program activity-based reporting from Order No. R9-2002-0001. Under the CASQA assessment model, activity-based reporting includes primarily outcomes that document compliance with permit requirements (Level 1 outcomes), rather than being indicators of the impact of activity implementation.[251] This approach is consistent with guidance from the USEPA, which notes that annual reports should highlight program effectiveness as well as describing activities.[252] This emphasis is also consistent with recommendations from the National Academy of Public Administration in its report to USEPA on Evaluating Environmental Progress, which suggest that reviewing activities data provides limited value when evaluating the effectiveness of programs and resulting environmental conditions.[253]

The Order maintains some reporting requirements for certain activity-based outcomes. These are mostly focused on activities that establish or revise municipal processes related to storm water runoff and management. The processes required by the Order are especially important in situations where sustaining water quality improvements may require activities that extend beyond the five-year period of the NPDES permit.

In addition, the Order maintains many activity-based reporting requirements related to enforcement of local requirements, with an emphasis on the results from such activities. This is intended to facilitate review of the contributions that inspection and enforcement activities have made toward meeting the goals of the Order. Reporting of these types of activities is supported by recommendations from the National Academy of Public Administration in its report to the USEPA: *Evaluating Environmental Progress: How EPA and the States Can Improve the Quality of Enforcement and Compliance Information* (June 2001).[254] Other activity-based reporting has been reduced to selected items based on consideration of program priorities.

Another source of prioritization for activity-based reporting is the *Storm Water Panel Recommendations to the California State Water Resources Control Board The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities* (June 19, 2006). In particular, the panel highlighted needs to improve the design, maintenance, and inspections of best management practices.

[251] Level 1 outcomes under the CASQA guidance include documentation that required activities have been implemented.
[252] USEPA 2007. *MS4 Program Evaluation Guidance.* USEPA Office of Wastewater Management EPA-833-R-07-003. January 2007 field test version.
[253] National Academy of Public Adminstration 2001. Evaluating Environmental Progress: How EPA and the States Can Improve the Quality of Enforcement and Compliance Information (June 2001). http://www.napawash.org
[254] The National Academy of Public Administration report is available on-line at http://www.napawash.org

L. Modification of Programs

The following legal authority applies to section L:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Section L of the Order provides a process for the Copermittees to modify their runoff management programs. This process will be useful so that the Copermittees can continue to refine and improve their programs based on the findings of their annual program effectiveness assessments. The process allows for minor modifications to the Copermittees' programs where the Copermittees can exhibit that the modifications meet or exceed existing legal requirements under the Order. Such a process avoids lengthy and time consuming formal approvals of proposed modifications before the Regional Board, while still ensuring compliance with applicable legal standards and the Order. The process included in the Order is based on a process utilized by the San Francisco Bay Area Regional Water Quality Control Board in their MS4 permit for Alameda County.[255]

[255] San Francisco Bay Area Regional Water Quality Control Board, 2003. Order No. R2-2003-0021. P. 45.

M. Principal Permittee Responsibilities

The following legal authority applies to section M:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.26(a)(3)(iii)(C) provides that "A regional authority may be responsible for submitting a permit application."

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(D) provides that "[The Copermittee must demonstrate that it can control] through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system."

No significant changes were made to this section.

N. Receiving Waters Monitoring and Reporting

The following legal authority applies to section N:

Broad Legal Authority: CWA sections 402, 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Copermittees must conduct a comprehensive monitoring program as required under Federal NPDES regulations 40 CFR 122.26(d)(2)(iii) and 122.44.

See section T of this Fact Sheet/Technical Report for a discussion of changes to the Receiving Waters Monitoring and Reporting Program.

O. Standard Provisions, Reporting Requirements, And Notifications

The following legal authority applies to section O:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Standard provisions, reporting requirements, and notifications are consistent to all NPDES permits and are generally found in Federal NPDES regulation 40 CFR 122.41.

Section L.2 of the Order has been changed to remove the statement that all plans and reports submitted in compliance with the Order are an enforceable part of the Order. This statement has been removed because it is unnecessary. The Order itself contains sufficient detailed requirements to ensure that compliance with discharge prohibitions, receiving water limitations, non-storm water action levels and the narrative standard of MEP for storm water are achieved. Implementation by the Copermittees of programs in compliance with the Order's requirements, prohibitions, and receiving water limitations is the pertinent compliance standard to be used under the Order, as opposed to assessing compliance by reviewing the Copermittees' implementation of their plans alone.

Rather than being substantive components of the Order itself, the Copermittees' management plans are simply descriptions of their runoff management programs required under the Order. These plans serve as procedural correspondence which guides program implementation and aids the Copermittees and Regional Board in tracking implementation of the programs. In this manner, the plans are not functional equivalents of the Order. For these reasons, the Copermittees' runoff management plans need not be an enforceable part of the Order.

Administrative Record Page No. 025466

P. Attachment A – Basin Plan Prohibitions

The following legal authority applies to Attachment A:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: California Water Code Section 13243 provides that "A regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted."

California Water Code Section 13263(a) provides that waste discharge requirements prescribed by the SDRWQCB implement the Basin Plan.

No significant changes were made to this attachment.

Administrative Record Page No. 025467

Q. Attachment B – Standard Provisions

The following legal authority applies to Attachment B:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Specific Legal Authority: Standard provisions, reporting requirements, and notifications are consistent to all NPDES permits and are generally found in Federal NPDES regulation 40 CFR 122.41.

Attachment B includes Standard Provisions which have been developed by the State Board. These Standard Provisions ensure that NPDES permits are consistent and compatible with USEPA's federal regulations. Some Standard Provisions sections specific to publicly owned sewage treatment works are not included in Attachment B.

R. Attachment C – Definitions

The following legal authority applies to Attachment C:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Attachment C contains definitions for terms found in the Order. In addition, definitions for terms previously defined in Order No. R9-2002-0001 Attachment D, but which are not found in the current Order, have been deleted.

An additional section which includes acronyms and abbreviations has been added. This is to ensure clarity and prevent confusion of terms. Definitions have been added for new terms used in the permit to provide a clear understanding of their meaning and use.

S. Attachment D – Summary of Submittals

The following legal authority applies to Attachment D:

Broad Legal Authority: CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, 13383, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv) and 122.44(i).

Specific Legal Authority: Federal NPDES regulation 40 CFR 122.42(c) requires that "The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer system that has been designated by the director under § 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include: (1) The status of implementing the components of the storm water management program that are established as permit conditions; (2) Proposed changes to the storm water management program that are established as permit condition. Such proposed changes shall be consistent with § 122.26(d)(2)(iii) of this part; (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under § 122.26(d)(2)(iv) and (d)(2)(v) of this part; (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; (5) Annual expenditures and budget for year following each annual report; (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; (7) Identification of water quality improvements or degradation."

California Water Code section 13267 provides that "the regional board may require than any person who has discharged […] shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires."

Attachment D to the Order provides a table summary of scheduled submittals required by the Order. Unscheduled submittals are no longer added to the table, since there is no proper due date for such submittals. A task summary has not been created for the Order, since the previous task summary was found to be redundant, repeating information found in the submittal summary and elsewhere in the Order.

A Jurisdictional Runoff Management Program (JRMP) Annual Report Checklist has been added to the reporting requirements. This addition is to determine and ensure that all requirements of the permit are being met. A Jurisdictional Runoff Management Program (JRMP) Annual Report Checklist has been added to the reporting requirements. This addition is to determine and ensure that all requirements of the permit are being met.

Administrative Record Page No. 025470

T. Attachment E - Receiving Waters and MS4 Discharge Monitoring and Reporting Program

The following legal authority applies to the Receiving Waters and MS4 Discharge Monitoring and Reporting Program:

Broad Legal Authority: CWA sections 402, 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv), 122.44 and 122.45.

Specific Legal Authority: Copermittees must conduct a comprehensive monitoring program as required under Federal NPDES regulations 40 CFR 122.26(d)(2)(iii).

Federal NPDES regulation 40 CFR 122.42(c) requires that "The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer system that has been designated by the director under § 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include: (1) The status of implementing the components of the storm water management program that are established as permit conditions; (2) Proposed changes to the storm water management program that are established as permit condition. Such proposed changes shall be consistent with § 122.26(d)(2)(iii) of this part; (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under § 122.26(d)(2)(iv) and (d)(2)(v) of this part; (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; (5) Annual expenditures and budget for year following each annual report; (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; (7) Identification of water quality improvements or degradation."

California Water Code section 13267 provides that "the regional board may require than any person who has discharged […] shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires."

1. Purpose

According to USEPA, the benefits of sampling data include, but are not limited to:

1. Providing a means for evaluating the environmental risk of storm water discharges by identifying types and amounts of pollutants present;
2. Determining the relative potential for storm water discharges to contribute to water quality impacts or water quality standard violations;
3. Identifying potential sources of pollutants; and

4. Eliminating or controlling identified sources more specifically through permit conditions.[256]

Equally important, monitoring programs are an essential link in the improvement of storm water management efforts. Data collected from monitoring programs can be assessed to determine the effectiveness of management programs and practices, which is vital for the success of the iterative approach used to meet the MEP standard for storm water. Specifically, when data indicates that a particular BMP or program component is not effective, improved efforts can be selected and implemented. Also, when water quality data indicate that water quality standards or objectives are being exceeded, particular pollutants, sources, and drainage areas can be identified and targeted for specific management efforts.

Considering the benefits described above, the Receiving Waters Monitoring and Reporting Program (MRP) has been designed to determine impacts to receiving water quality and beneficial uses from storm water runoff and to use the results to refine the Copermittees' storm water runoff management programs for the reduction of storm water pollutant loadings to the MEP. For non-storm water discharges, monitoring has been designed for the identification of prohibited illicit discharges and to determine appropriate actions to take in response to dry weather non-storm water action levels. Additionally, the results from dry weather non-storm water monitoring can be used to evaluate exempted non-storm water discharges as a source or conveyance of pollutants. The primary goals of the MRP include:

1. Assess compliance with Order No. R9-2009-0002;
2. Measure and improve the effectiveness of the Copermittees' runoff management programs;
3. Assess the chemical, physical, and biological impacts of receiving waters from MS4 discharges;
4. Characterize storm water runoff discharges;
5. Identify sources of specific pollutants;
6. Prioritize drainage and sub-drainage areas that need management actions;
7. Detect and eliminate illicit discharges and illicit connections to the MS4;
8. Assess the overall health of receiving waters; and
9. Provide information to implement required BMP improvements

[256] USEPA, 1992. NPDES Storm Water Sampling Guidance Document. EPA/833-B-92-001.

Each of the components of the MRP is necessary to meet the objectives listed above. In addition, the MRP has been designed in accordance with the guidance provided by the Southern California Stormwater Monitoring Coalition's Model Monitoring Technical Committee in its August 2004 "Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California." This guidance document was developed in response to Senate Bill 72 (Kuehl), which addressed the standardization of sampling and analysis protocols in municipal stormwater monitoring programs. The technical committee which developed the guidance included representatives from Southern California Regional Water Quality Control Boards (including San Diego), municipal storm water Permittees (including the County of Orange), Heal the Bay, and the Southern California Coastal Water Research Project.

As its title suggests, the guidance essentially developed a model municipal storm water monitoring program for use in Southern California. The model program is structured around five fundamental management questions, outlined below. The MRP is designed as an iterative step towards ensuring that the Copermittees' monitoring program can fully answer each of the five management questions.

1. Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
2. What is the extent and magnitude of the current or potential receiving water problems?
3. What is the relative storm water runoff contribution to the receiving water problem(s)?
4. What are the sources of storm water runoff that contribute to receiving water problem(s)?
5. Are conditions in receiving waters getting better or worse?

The justifications for each component of the monitoring program are discussed below.

2. Monitoring Program

Mass Loading Station Monitoring

The intent of current mass loading monitoring as conducted by the Copermittees is to use water chemistry data from storm events and dry weather flows to calculate pollutant loads and to assess water quality with respect to applicable acute and chronic toxicity criteria from the California Toxics Rule (CTR).[257]

[257] Orange County Storm Water Permittees. 2006. Report of Waste Discharge, section C-11.3.2.

Section II.A.1 of the MRP requires mass loading and toxicity monitoring at monitoring stations located at the bottom of major watersheds within Orange County. The mass loading monitoring will provide data representing event mean concentrations of pollutants, total pollutant loadings, and toxicity conditions from specific drainage areas. Mass loading monitoring stations are recommended by the Model Monitoring Technical Committee in order to answer management questions 1, 2, and 5.[258] The stations are also expected to contribute towards meeting MRP goals 1, 2, 3, 4, 6, and 8. The locations of the mass loading monitoring stations are not changed from Order No. R9-2002-0001. However, the frequency of monitoring has been changed, and some revisions to the constituents have been made.

The frequency of mass loading monitoring in Order No. 2009-0002 has been modified to include two wet and two dry weather events. Currently three wet events have been targeted (though usually two or less have been sampled). This modification is not expected to affect long-term trend analyses for storm events since the monitoring to date has been sporadic.[259] Dry weather monitoring is necessary because dry-weather flows in these watersheds are now perennial and changes have been made to the Order for non-storm water discharges. The addition of dry weather monitoring provides a more comprehensive temporal view of the watershed, which will improve the Copermittees' ability to understand the dynamics of annual pollutant loading.

In addition, the required constituents include some revisions to Order No. R9-2002-0001. The changes are made to be compatible with the federal NPDES regulations and in response to data collected during the current permit term. The changes include:

1. All events must now include Biological Oxygen Demand, 5-day Chemical Oxygen Demand, Total Organic Carbon, Dissolved Organic Carbon. These are specifically identified in 40 CFR 122.26(d)(2)(iii)(B), but were omitted from Order No. R9-2002-01.

2. Carbamate and Pyrethroid pesticides must initially be monitored in Prima Deshecha and Segunda Deshecha watersheds. If carbamate and/or pyrethroid pesticides are found to correlate with observed acute or chronic toxicity, then sampling and analysis for that pesticide must be added to all stations displaying toxicity. The Copermittees suggest adding these pesticides to Prima and Segunda Deshecha watersheds in an attempt to find a cause for observed persistent toxicity at those stations.[260] If these pesticides are found in these watersheds, then they will likely be present in the other developed watersheds of the Region.

[258] Model Monitoring Technical Committee, 2004. Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California. Chapter 5.
[259] Mass loading monitoring has been hampered by technical difficulties. For instance, only four of six stations were operational during the 2004-05 season, and only three stations were operational during 2002-04 season.
[260] Orange County Storm Water Permittees. 2006. Report of Waste Discharge, section C-11.4.1.

3. Impaired water body pollutants. Specific pollutants have been added in response to the U.S. Environmental Protection Agency approval of California's 2004-2006 Section 303(d) Water Quality Limited Waters List. Monitoring for these pollutants is specific to the watershed in which the impairment is located.

4. Dimethoate monitoring has been eliminated because data collected to date has not observed any significant levels at the mass emissions stations.

5. A requirement to collect a grab sample for total petroleum hydrocarbons whenever a sheen is observed has been added at the suggestion of the County of Orange.

Bioassessment

Section II.A.2 of the MRP requires the Copermittees to conduct bioassessment monitoring. Bioassessment monitoring is a cost-effective tool that measures the effects of water quality over time.[261] It is an important indicator of stream health and impacts from storm water and non-storm water runoff. It can detect impacts that chemical and toxicity monitoring cannot. USEPA encourages permitting authorities to consider requiring biological monitoring methods to fully characterize the nature and extent of impacts from runoff.[262] Therefore, the Regional Board commonly requires bioassessment monitoring in MS4 and other types of discharge permits.

Bioassessment is the direct measurement of the biological condition, physical condition, and attainment of beneficial uses of receiving waters (typically using benthic macroinvertebrates, periphyton, and fish). Bioassessment monitoring integrates the effects of both water chemistry and physical habitat impacts (e.g., sedimentation or erosion) of various discharges on the biological community native to the receiving waters. Moreover, bioassessment is a direct measurement of the impact of cumulative, sub-lethal doses of pollutants that may be below reasonable water chemistry detection limits, but that still have biological affects.

[261] California Department of Fish and Game, 2002. California Regional Water Quality Control Board, San Diego Region 2002 Biological Assessment Report: Results of May 2001 Reference Site Study and Preliminary Index of Biotic Integrity.
[262] USEPA, 1999. Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers. EPA 841-B-99-002. P. 2-5.

Because bioassessment focuses on communities of living organisms as integrators of cumulative impacts resulting from water quality or habitat degradation, it defines the ecological risks resulting from storm water and non-storm water MS4 runoff. Bioassessment not only identifies that an impact has occurred, but also measures the effect of the impact and tracks recovery when control or restoration measures have been taken. These features make bioassessment a powerful tool to assess compliance, evaluate the effectiveness of BMPs, and to track both short and long-term trends (MRP goals 1,2,3, and 8). Bioassessment can also help answer management questions 1, 2, and 5.

The Order also identifies the most current established protocol to be used in identifying bioassessment reference stations. The protocol referenced in the Order is specified because it provides a qualitative and repeatable method for identifying reference sites. Moreover, the protocol is well established, since it has been peer reviewed and published.

The Order includes four modifications to the bioassessment monitoring required under Order 2002-0001. These changes include:

1. Bioassessment monitoring must utilize the targeted riffle composite approach, which is consistent with the State Board's Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Management Plan (QAMP), as amended. Through SWAMP, various bioassessment methods were evaluated and it was found that the targeted riffle composite approach was a particularly efficient method, providing accurate data in a cost efficient manner.

2. Bioassessment monitoring to include assessment of periphyton (algae). Advantages of bioassessment using periphyton include: (1) they have rapid reproduction rates and very short life cycles, making them valuable indicators of short-term impacts; (2) as primary producers, they are most directly affected by physical and chemical factors; (3) sampling is easy and inexpensive; and (4) algal assemblages are sensitive to some pollutants which may not visibly affect other aquatic assemblages.[263] Future bioassessment must use algal IBI scores, when developed.

[263] USEPA, 1999. Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers. EPA 841-B-99-002. P. 3-3.

3. One of the two required annual monitoring events has been eliminated for streams exhibiting perennial flows. The Copermittees suggest this approach in response to analyses that indicate that the physical habitat conditions are better correlated than aquatic chemistry data with IBI scores.[264] The Copermittees analyses indicate that although biological communities are different in the Fall and Spring, both seasonal communities indicate the same common relationships to spatial biological patterns and potential variables that explain the differences. For instance, downstream urbanized locations which exhibit perennial flows display lower IBI scores than reference sites regardless of the season, even if the biological community at a downstream site differs between the Fall and Spring.

4. The number of bioassessment stations has been reduced from 12 to six. This will allow resources to be available to implement the Stormwater Monitoring Coalition's program for Regional Monitoring of Southern California's Coastal Watersheds (Section II.D.3). The Regional Monitoring program calls for six sites to be sampled each year and includes each of the basic elements within the Copermittees' bioassessment monitoring program. Although the amount of toxicity tests are reduced, wetland status analyses will also be analyzed. The Regional Monitoring program is discussed in Section II.D.3 below.

Follow-up Analyses and Actions

Section II.A.3 of the MRP requires the Copermittees to use the results of the chemistry, toxicity, and bioassessment monitoring to determine if impacts from MS4 discharges are occurring and when follow-up actions are necessary. The triad approach allows a wide range of measurements to be combined to more efficiently identify pollutants, their sources, and appropriate follow-up actions. Results from the three types of monitoring shall be assessed to evaluate the extent and causes of pollution in receiving waters and to prioritize management actions to eliminate or reduce the sources. The framework provided is to be used to determine conclusions from the data and appropriate follow-up actions. The framework is proposed by the Copermittees and derived from the Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California.[265] These follow-up actions are expected to primarily help answer management questions 2 and 4, as well as address MRP goals 2, 4, 5, 6 and 7.

[264] Orange County Storm Water Copermittees. 2006. Report of Waste Discharge (San Diego Region), section 11 and 2005-06 Annual Report section 11.3
[265] Model Monitoring Technical Committee, 2004. Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California. P. 5-61.

When, based on the framework in Table 2 of the M&R Program, data indicates the presence of toxic pollutants in runoff, the Copermittees are required to conduct a Toxicity Identification Evaluation (TIE). A TIE is a set of procedures used to identify the specific chemical(s) responsible for toxicity to aquatic organisms. When discharges are toxic to a test organism, a TIE must be conducted to confirm potential constituents of concern and rule out others, therefore allowing Copermittees to determine and prioritize appropriate management actions. If a sample is toxic to more than one species, it is necessary to determine the toxicant(s) affecting each species. If the type and source of pollutants can be identified based on the data alone and an analysis of potential sources in the drainage area, a TIE is not necessary.

When a TIE identifies a pollutant associated with MS4 discharge as a cause of toxicity, it is then necessary to conduct follow-up actions to identify the causative agents of toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. Follow-up actions should analyze all potential source(s) causing toxicity, potential BMPs to eliminate or reduce the pollutants causing toxicity, and suggested monitoring to demonstrate that toxicity has been removed.

Ambient Coastal Receiving Waters Monitoring

The Copermittees have been implementing a phased Ambient Coastal Monitoring Program that initially involved monitoring chemistry and aquatic toxicity of dry and storm water discharges to ecologically sensitive areas along the coastline. Later, aerial photographs of storm water plumes were taken to estimate the spatial extent of the impact of storm water runoff. The results were used to identify storm drains for source and toxicity identification studies, including sampling of storm water plumes.

Section II.A.4 of the MRP allows the Copermittees to continue the existing program, while requiring that the special studies be consistent with the MRP goals and that stations be located within Areas of Special Biological Significance.

Coastal Storm Drain Monitoring

Section II.A.5 of the MRP has been extensively modified and changed to a Regional Monitoring Program.

Section II.A.5.a. Coastal storm drain monitoring has been replaced with a Regional Bacteria Monitoring section. Coastal storm drain monitoring is critical because one of the primary impacts to coastal receiving waters is the loss of recreational beneficial uses resulting from high levels of bacteria in storm water and non-storm water MS4 runoff. The regional monitoring program is expected to help answer management questions 1, 2, 3, 4 and 5, as well as address MRP goals 1, 2, 3, 4, 5, 6, 7, and 8.

The changes to the coastal storm drain monitoring program have been made in response to the Copermittees' request. The Copermittees recommend participation in the regional program to save cost, prevent redundancy, improve notification times and provide more effort toward intensive investigations of problematic storm drains.[266] This section has been modified to allow the Copermittees to participate in the development and subsequent regional bacteria monitoring program upon review and approval from the Executive Officer. An adaptive approach is consistent with the Model Monitoring Technical Committee's recommendations.

High Priority Inland Aquatic Habitats

Section II.A.6 of the MRP has been removed.

Wet Weather MS4 Runoff Discharge Monitoring

Section II.B of the MRP requires the Copermittees to develop and implement a program to monitor and characterize pollutant discharges from MS4 outfalls. Currently the Copermittees do not monitor the discharge of storm water from the MS4 outfalls. As a result, a substantial amount of information regarding the quality of MS4 effluent is unknown. The collection of wet-weather data will enable the Copermittees to assess the effectiveness of existing storm water BMP measures. This data can be used to more effectively target storm water management program efforts. The MRP also requires compliance with Section D of the Order for Storm Water Action Levels.

The monitoring of outfalls is expected to be used to identify storm drains that are discharging pollutants in concentrations that may pose a threat to receiving waters. Source investigations are expected to be conducted as a response to the data.

The MRP provides the Copermittees great flexibility in assigning stations for wet-weather monitoring. Copermittees are to choose the number and frequency of monitoring stations, thus determining the overall cost of their program.

The monitoring requirements also include a requirement to measure receiving water hardness when comparing storm water MS4 discharge data to Storm Water Action Levels for priority pollutants (e.g. metals). The effect of these constituents upon receiving waters will vary depending upon the hardness of receiving waters.

[266] Ibid

Section II.B.2 requires the Copermittees to develop and implement a program to identify sources of discharges of pollutants causing the high priority water quality problems within each watershed. This requirement should be easily met because of the foundation already developed by the Copermittees in response to Order No. R9-2002-0001. To some extent, the Copermittees do conduct follow-up monitoring in response to dry-weather outfall data. The ROWD and 2007 DAMP describe some guidance that is provided by the County to the Copermittees, and it is expected that the Copermittees will develop follow-up monitoring programs for storm water discharges. The ROWD does recommend that additional training be provided for the municipalities with respect to interpreting and using the data collected by the County. In addition, many of the Copermittees have developed procedures and experience in conducting follow-up investigations in response to the bacteria investigations in the Aliso Creek watershed.[267]

Identification of sources causing high priority water quality problems is a central purpose of storm water runoff management programs. Monitoring which enables the Copermittees to identify sources of water quality problems aids the Copermittees in focusing their management efforts, improving their programs and choosing additional and/or better BMPs. In turn, the Copermittees' programs can abate identified sources, which will improve the quality of storm water runoff discharges and receiving waters. This monitoring is needed to address management question 4. Moreover, in its review of the San Diego County Copermittees' monitoring proposal, Tetra Tech, Inc. finds that "after some years of assessment monitoring, it is time to look more systematically at determining the relative urban contributions and the sources of urban runoff that contribute to identified receiving water problems."[268]

Non-storm Water Dry Weather Action Levels

Section II.C of the MRP describes the monitoring to be conducted by the Copermittees to determine compliance with dry weather, non-storm water action levels.

Section II.B.3 has been changed by removal of the Dry Weather Field Screening and Analytical Monitoring and subsequent replacement with section II.C for Dry Weather Non-Storm Water Action Level Monitoring. This change is required to assess compliance with action levels for non-storm water discharges from the MS4 into receiving waters. The required sampling frequency has been changed to allow Copermittees to sample a representative number of discharge points and the sampling methodology has been changed to grab sampling. This is expected to allow Copermittees to maintain a cost-neutral dry weather monitoring program that is similar to their existing IC/ID monitoring program.

[267] Copermittees in the Aliso Creek watershed include the County of Orange and the Cities of Aliso Viejo, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, and Mission Viejo.
[268] Tetra Tech Inc., 2006. Review of San Diego County MS4 Monitoring Program.

Special Studies

Section II.D.1 of the MRP absorbs the bacteria monitoring and reporting program currently in place in the Aliso Creek watershed.[269] This monitoring effort has been required by the Regional Board pursuant to authorities provided under California Water Code sections 13225 and 13267. The monitoring and reporting is focused solely on the MS4s in the Aliso Creek watershed and has effectively been integrated already into the Copermittees' programs. Inclusion of it into the MRP is done for organizational purposes and will have no other net effect.

Section II.D.3 includes a requirement to participate in the program for Regional Monitoring of Southern California's Coastal Watersheds developed by the Stormwater Monitoring Coalition. That program calls for the sampling of six locations within the Permit area each year. All sampling will be SWAMP comparable. Sampling includes water chemistry, aquatic toxicity (*Ceriodaphnia dubia*), physical habitat, benthic macroinvertebrates, wetland status (based on California Rapid Assessment Method protocols), and periphyton.

Section II.D.4 includes a requirement that the Copermittees conduct a sediment toxicity special study. This study has been added to the Monitoring and Reporting requirements to assess the quality of urban stream sediments and possible contamination due to runoff from the MS4. Toxicity tests focusing on aqueous toxicity may not account for the full toxicity of receiving waters if constituents, such as heavy metals or pesticides, are bound to sediments. Southern California studies have shown that stream sediments can exhibit significant levels of toxic metals and pesticides.[270,271]

Section II.D.5 includes a requirement that the Copermittees conduct a Trash and Litter Impairment Investigation (see Finding C.8 and Discussion).

Monitoring Provisions

Section II.E of the MRP includes monitoring provisions which are standard requirements for all municipal storm water permits.

---

[269] On October 12, 2005, the Regional Board accepted the revised Aliso Creek watershed bacteria monitoring plan proposal from the MS4 Permittees. The Regional Board concluded that the scope of the current bacteria monitoring in the watershed was no longer warranted and that the proposed changes would constitute an effective interim program until adoption of a Total Maximum Daily Load, requiring a bacteria reduction and assessment program for the watershed. In addition, the Regional Board recognized that as a result of reduced monitoring costs, the municipalities expect to direct additional resources toward implementation of management practices to reduce indicator bacteria and pathogens.

[270] Holmes, R.W., Anderson, B.S., Phillips, B.M., Hunt, J.W., Crane, D.B., Mekebri, A. and V. Connor. 2008. Statewide Investigation of the Role of Pyrethroid Pesticides in Sediment Toxicity in California's Urban Waterways. *Environmental Science Technology* 42: 7003-7009..

[271] Crane, D.B. and C. Younghans-Haug. 1992. Oxadiazon residue concentrations in sediment, fish, and shellfish from a combined residential/agricultural area in Southern California. *Bulletin of Environmental Contamination and Toxicology.* Volume 48, no. 4.

Administrative Record Page No. 025481

2. Reporting Program

Section III of the MRP discusses submittal of the Jurisdictional Runoff Management Program Annual Reports and the Receiving Waters Monitoring Annual Reports. In effect, a description of the monitoring program will be submitted with the Jurisdictional RMPs, and the monitoring data and assessment will be submitted one month later. The MRP continues the reporting approach utilized under the requirements of Order No. R9-2002-0001, where Lead Permittees for each watershed submit their annual reports to the Principal Permittee to be unified into one document.

The reporting requirements for the Aliso Creek watershed are also specified in this section. These reporting requirements are identical to the current reporting required by the Regional Board for the bacteria investigation. They are specified in this section because the requirements are more specific than reporting required for other watershed RMPs.

Administrative Record Page No. 025482

U. Attachment F - Source Data

Attachment F contains data utilized for the development of Storm Water Action Levels and Non-storm Water Action Levels.