



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

May 13, 2008

VIA CERTIFIED MAIL
7007 3020 0001 0040 7157

In reply refer to:
WPS:10-7000.02:rneill

General Manager-Chief Engineer
Warren D. Williams
Riverside County Flood Control and
Water Conservation District
1995 Market Street
Riverside, CA 92501

City Manager
Rick Dudley
City of Murrieta
One Town Square
24601 Jefferson Avenue
Murrieta, CA

Riverside County Executive Officer
Larry Parrish
Riverside County Administrative Center
4080 Lemon Street – 4th Floor
Riverside, CA 92501

City Manager
Shawn Nelson
City of Temecula City Hall
43200 Business Park Dr.
Temecula, CA 92590

RE: NOTICE OF VIOLATION AND REQUIRED TECHNICAL REPORT

Dear Riverside Copermittees,

Enclosed is **Notice of Violation (NOV) No. R9-2008-0053** for the failure to conduct monitoring as required in California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2004-001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108766, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the County of Riverside, the City of Murrieta, the City of Temecula, and the Riverside County Flood Control and Water Conservation District within the San Diego Region (Permit)*. The County of Riverside, Riverside County Flood Control and Water Conservation District, City of Murrieta, and city of City of Temecula are hereinafter referred to as Copermittees.

The violations were identified during an inspection by the Regional Board with PG Environmental, a USEPA Region IX contractor. The NOV and this letter are limited to violations that are the collective responsibility of all the Copermittees named in the Permit. Under the terms and conditions of the Permit, the Regional Board may initiate

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enforcement separately against any individual Copermittee for any violations in the inspection report that are the sole responsibility of the individual Copermittee.

The failure to properly implement the requirements of the Monitoring and Reporting Program, as detailed in the NOV, hinders the Copermittees ability to comply with the goals the goals of Order No. R9-2004-001, Monitoring and Reporting Program Section I which provides:

"This Monitoring and Reporting Program (MRP) is intended to meet the following goals:

1. Assess compliance with Order No. R9-2004-001;
2. Measure and improve the effectiveness of the Storm Water Management Plans;
3. Assess the chemical, physical, and biological impacts of receiving waters resulting from urban runoff;
4. Characterize urban 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; and
8. Assess the overall health of receiving waters."

Furthermore, the fact sheet for Order No. R9-2004-001 provides that "monitoring programs are an essential link in urban runoff management efforts". These violations of permit requirements will impede the Copermittees ability to submit their fourth year Monitoring Report that is required to discuss long term trends, recommendations for future changes in monitoring, and recommended modifications to the Copermittees Storm Water Management Plans.

Therefore, pursuant to California Water Code section 13267 and 13383, the Copermittees are directed to prepare and submit a Required Technical Report (RTR) to the Regional Board no later than **5:00 PM, on June 13, 2008**. The RTR is required due to the violations noted in the enclosed NOV No R9-2008-0053. The RTR will be reviewed to determine if appropriate measures have been taken to address these violations and to assess the need for further enforcement action. The RTR shall provide the following information:

1. An explanation section describing the reasons why the violations occurred.

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2. A planned actions section describing how the Copermittees plan to correct these violations and to prevent these violations from occurring in the future.
3. An updated Consolidated Monitoring Program that includes changes needed to correct these violations and prevent future violations.

The submitted Required Technical Report shall be signed in accordance with Order No. R9-2004-001, Attachment B.2 Signatory Requirements and contain 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.

If the Copermittees wish, one Copermittee may submit the RTR on behalf of the other Copermittees provided the RTR includes a signed authorization from each Copermittee including the signed certification. Each Copermittee, however, is responsible for complying with permit requirements

Failure to submit the above information by the date requested may result in the imposition of administrative civil liability pursuant to CWC sections 13268 and 13385. Please note that all permit requirements previously not submitted (e.g. TRE Evaluation) are still considered overdue. Neither this letter, nor the NOV, in anyway extend any permit requirement deadlines.

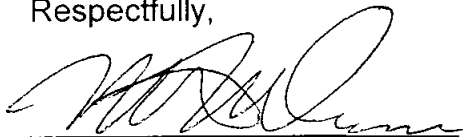
These are serious violations and raise questions about the Copermittees' commitment to implement the required monitoring and reporting program in the future. I urge that the Copermittees take all necessary steps to achieve compliance by fully implementing the required monitoring and reporting program.

Questions pertaining to this Required Technical Report and the enclosed Notice of Violation should be directed to Ben Neill at (858) 467-2983 or bneill@waterboards.ca.gov. Written correspondence should be directed to the following address:

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Michael P. McCann
Assistant Executive Officer
Attn: Ben Neill
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Respectfully,



MICHAEL P. McCANN
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer

Attachments: Notice of Violation No. R9-2003-058
USEPA Region IX MS4 Inspection Report

CC with attachments via email:

Ken Greenberg, USEPA, greenberg.ken@epa.gov
Aldo Licitra, City of Temecula, aldo.licitra@temecula.org
Farida Naceem, City of Murrieta, fnaceem@murrieta.org
Mike Shetler, County of Riverside, mshetler@rceo.org
Jason Uhley, Riverside County Flood Control District, juhley@co.riverside.ca.us
Wes Ganter, PG Environmental, LLC, wes.ganter@pgenv.com

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CIWQS: 13267: 344727
NOV: 344582
9/20/07 FIR: 1359665
1/15/08 FIR: 1359752
Violations: 749574, 749576, 749577, 749578, 749579, 749580, 749778



California Regional Water Quality Control Board San Diego Region



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May 13, 2008

<p>IN THE MATTER OF:</p> <p>General Manager-Chief Engineer Warren D. Williams Riverside County Flood Control and Water Conservation District 1995 Market Street Riverside, CA 92501</p> <p>Riverside County Executive Officer Larry Parrish Riverside County Administrative Center 4080 Lemon Street – 4th Floor Riverside, CA 92501</p> <p>City Manager Shawn Nelson City of Temecula City Hall 43200 Business Park Dr. Temecula, CA 92590</p> <p>City Manager Rick Dudley City of Murrieta One Town Square 24601 Jefferson Avenue Murrieta, CA</p>	<p>NOTICE OF VIOLATION NO. R9-2008-0053</p> <p>In reply refer to: NWU:bneill</p> <p>WDID NOs. 9 000000512</p> <p>9 0000512S1</p> <p>9 0000512S2</p> <p>9 0000512S3</p>
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Order No. R9-2004-001, NPDES No. CAS0108766

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2004-001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108766, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the County of Riverside, the City of Murrieta, the City of Temecula, and the Riverside County Flood Control and*

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Water Conservation District (Permittees) within the San Diego Region. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

On September 20, 2007, Brandi Outwin, Water Resource Control (WRC) Engineer, Kristin Schwall, WRC engineer, Lilian Busse, Environmental Scientist, and Peter Peuron, Environmental Scientist, accompanied by Wes Ganter and Max Kuker, of PG Environmental, LLC, a USEPA Region IX contractor, conducted an inspection to investigate the Copermittees compliance with Provision L. Part II. Monitoring Program of Order No. R9-2004-001. Again on January 15, 16, and 17, 2008, Chad Loflen, Environmental Scientist, accompanied by PG Environmental conducted a follow-up inspection to review the Permittees 2006-2007 Monitoring Annual Report and identified the violations described below. USEPA's report describing the findings of the inspections is attached.

SUMMARY OF VIOLATIONS:

I. Failure to Monitor and Report

- Order R9-2004-001, Provision L. Monitoring and Reporting Program provides: "Pursuant to CWC section 13267 the Permittees shall comply with all requirements contained in the MRP (Monitoring and Reporting Program)."

Observation: The Permittees have entered into interlocal agreements with the Riverside County Flood Control and Water Conservation District (District) to implement the MRP. The Regional Board inspections investigated the District's implementation of the permit's MRP provisions for all Copermittees. The specific violations of the MRP are detailed below.

A. Failure to Collect Wet Weather Mass Loading Samples

- Order R9-2004-001, MRP Section II.A.1.1.b provides: "At each triad station, the Permittees shall monitor the first storm event of each monitoring year that produces sufficient flow to collect a composite sample, and a minimum of two additional storm events during each monitoring year."

Observation: For the reporting year of 2006-2007, no wet weather samples were collected at the Cole Creek reference station. Only one wet weather sample was collected at the Lower Murrieta Creek station and the Lower Temecula Creek station. In addition, the Permittees failed to monitor the first storm event that produced sufficient flow. Based on available precipitation and United States Geological Service (USGS)

stream flow data, the District failed to monitor the first storm of the season on December 10, 2006. The inspection report includes the USGS data.

B. Failure to Provide Written Explanation for Lack of Sampling

➤ Order R9-2004-001, MRP Section II.A.1.1.c provides:

"In the event that the required number of storm events are not sampled during one monitoring year at any given station, the Permittees shall submit, with the subsequent Annual Report, a written explanation for a lack of sampling data, including stream flow data from the nearest USGS gauging station."

Observation: The 2006-2007 MRP did not include the required written explanation for the lack of sampling data; nor did the 2006-2007 MRP include streamflow data from the nearest USGS gauging station.

C. Failure to Follow Required Monitoring Protocols

➤ Order R9-2004-001, MRP Section II.A.1.1.f provides:

"Mass loading sampling and analysis protocols shall be consistent with 40 CFR 122.21 (g)(7)(ii) and with the [US]EPA (United States Environmental Protection Agency) Storm Water Sampling Guidance Document (EPA 833-B-92-001). Storm water samples shall be flow-weighted composites, collected during the first 3 hours of flow, or for the duration of the storm if it is less than 3 hours."

Observation: The mass loading samples collected by the District on behalf of the Permittees do not conform with the referenced guidance documents because the District did not collect flow-weighted composite samples. In addition, the District did not adequately document whether the samples were collected during the first 3 hours of flow or for the duration of the storm when it is less than 3 hours. The District's Field Data Sheets indicate that the mass loading samples collected during the monitoring year at the triad stations were obtained as grab samples instead of the required composite samples.

D. Failure to Analyze for the full USEPA Priority Pollutant List

➤ Order R9-2004-001, MRP Section II.A.1.1.h, II.A.1.5.c provides:

"At triad stations, the first storm of every sampling year shall be analyzed for the full [US]EPA priority pollutant list (40 CFR 122, Appendix D)."

Observation: Although the District's 2006-2007 Annual Monitoring Report states that "... During the first storm event of the reporting period, samples collected at the Triad stations were analyzed for the complete list of priority pollutants", a review of the actual monitoring results reveals that the full list was not actually analyzed. In addition, the District did not analyze the tributary wet weather samples for all of the constituents of concern. Bacteria, nutrients (i.e. nitrogen and phosphorous), iron, and manganese are required to be sampled if expected to be present in the receiving water. The District did not analyze the Murrieta Creek wet weather samples for bacteria, iron, manganese, or nutrients. Iron, manganese, and nutrients are expected to be in the receiving waters because Murrieta Creek is listed on the Clean Water Act §303(d) list of impaired water

bodies for those pollutants. Samples taken during dry weather at stations tributary to Murrieta and Temecula Creek, also indicate that concentrations of bacterial indicators and nutrients exceed water quality objectives. Temecula Creek is also on the CWA §303(d) list of impaired waterbodies for nutrients. The wet weather samples from Temecula Creek were not analyzed for nutrients.

E. Failure to Conduct Follow-up Analysis and Actions

➤ Order R9-2005-001. MRP Section II.A.1.4 provides:

"When results from the chemistry, toxicity and bioassessment monitoring described above indicate urban runoff-induced degradation, Permittees shall evaluate the extent and causes of urban runoff pollution in receiving waters and prioritize management actions to eliminate or reduce sources." and

"When a Toxicity Identification Evaluation (TIE) identifies a pollutant(s) associated with urban runoff as a cause of toxicity. Permittees shall initiate a Toxicity Reduction Evaluation (TRE) immediately. The TRE shall include all reasonable steps to identify the source(s) of toxicity and propose appropriate BMPs to eliminate the causes of toxicity. Once the source of toxicity and appropriate BMPs are identified, the Permittees shall submit the TRE to the [Regional Board] for review."

Observation: The District did not conduct the required Toxicity Identification Evaluations (TIE) in either 2005 or 2006 as required when monitoring results show evidence of toxicity. In May and June of 2007, the District conducted the required TIE, but failed to immediately follow up with the required Toxicity Reduction Evaluation (TRE) as discovered in the September 20, 2007 inspection. The TRE was completed by the time of the January 2008 inspection, but the District has yet to submit the TRE to the Regional Board as the Permit requires.

F. Failure to Appropriately Collect Samples at Tributary Stations

➤ Order R9-2004-001 MRP Section II.A.1.5.a provides:

"The Permittees shall collect a grab sample from the first storm event of each monitoring year."

Observation: The first wet weather sample was taken on December 16, 2007 as opposed to the required first storm event of the monitoring year. USGS stream flow data indicates the first storm event occurred on December 10, 2007.

G. Failure to Adhere to Monitoring Provisions

➤ Order R9-2004-001 MRP Section II.C.c provides:

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

- (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;

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- (5) The analytical techniques or methods used; and,
- (6) The results of such analyses."

Observation: A review of the Districts Field Data Sheets was performed during the January 2008 inspection. The review indicated that the records of sampling events are not fully completed on a regular basis and critical information from the Field Data Sheets is missing. Missing data includes names of samplers, required signature of lead sampler, select field measurements, critical information such as why grab samples were collected in lieu of composite samples, and sampling equipment failures.

Questions pertaining to the issuance of this Notice of Violation should be directed to Ben Neill at (858) 467-2983 or bneill@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

David Barker
 Supervising Water Resource Control Engineer
 Attn: Ben Neill
 California Regional Water Quality Control Board, San Diego Region
 9174 Sky Park Court, Suite 100
 San Diego, CA 92123-4340



David Barker, P.E.
 Supervising Water Resource Control Engineer

May 13, 2008
 DATE

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**Riverside County Flood Control and Water Conservation
District and County of Riverside
Municipal Separate Storm Sewer System (MS4)
Inspection Report**

Background

PG Environmental, LLC, a USEPA Region IX contractor, with assistance from the California Regional Water Quality Control Board, San Diego Bay Region (Regional Water Board), conducted inspections of the Riverside County Flood Control and Water Conservation District (hereafter, District) and County of Riverside (hereafter, County) Municipal Separate Storm Sewer System (MS4) programs on September 20, 2007 and January 15 through 17, 2008. Mr. Wesley Ganter and Mr. Max Kuker of PG Environmental, LLC led the inspections and were assisted by Regional Water Board staff. Discharges from the District's and the County's MS4 are regulated by Regional Water Board Order No. R9-2004-001 (NPDES Permit No. CAS0108766) issued July 14, 2004. The purpose of the inspections was to determine the Permittees' compliance with requirements contained within Regional Water Board Order No. R9-2004-001 (hereafter, Order), and to assess the Permittees' current implementation status with respect to their Drainage Area Management Plan (DAMP). The initial September 20, 2007 inspection identified discrepancies between the Order requirements and the District and County MS4 program implementation. The intent of the January 2008 inspections was to further investigate and substantiate the previously noted discrepancies.

The District serves as the principal permittee for the Riverside County MS4 permittee group and the District and the County jointly implement several of the individual MS4 program elements. The previously referenced Order is the second MS4 permit issued to these permittees. While the District and the County also hold MS4 permits issued by the Santa Ana and Colorado River Regional Water Boards, this inspection primarily focused on activities occurring within the Santa Margarita River watershed and within the jurisdictional boundaries of the San Diego Regional Water Board. However, where indicated in this inspection report, Development Planning inspection activities also occurred in the Santa Ana Region during which the inspection team evaluated the permittees compliance with respect to Santa Ana Regional Water Board Order No. R8-2002-001. These activities occurred with the full knowledge and support of the Santa Ana Regional Board.

The inspections focused specifically on two sections of the Order: Provision F. Development Planning and the implementation of Standard Urban Storm Water Mitigation Plan (SUSMP) requirements; and Provision L. Part II. Monitoring Program. The inspections did not evaluate or assess compliance with the following provisions of the Order: G. Construction, H. Existing Development, I. Education, J. Illicit Discharge Detection and Elimination Program; and K. Watershed-Based Activities. As such, the inspections were not intended to be a comprehensive evaluation of all components and requirements associated with the entire MS4 program.

The inspections consisted of interviews of District and County staff. Interviews occurred at the Riverside County Executive Office located at 4080 Lemon Street in downtown Riverside and at

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the District's offices located at 1995 Market Street, Riverside, CA. The primary MS4 Program representatives were Mr. Mike Shetler and Mr. Alex Gann, Riverside County Executive Office, and Mr. Jason Uhley, Senior Civil Engineer, Riverside County Flood Control and Water Conservation District. These individuals were supported by other District and County staff that have responsibilities for program implementation and also by URS Corporation representatives, a consultant to the Riverside County permittee group. A list of all inspection attendees is attached to this report.

The County of Riverside was represented by five separate organizational entities during the course of the inspections as follows: the Executive Office, Economic Development Agency (EDA), Transportation Department, Facilities Management Department, and the Regional Park & Open-Space District.

The inspection schedule was as follows:

September 20, 2007	January 15-17, 2008
<p><i>Riverside County Flood Control and Water Conservation District and County of Riverside</i></p> <p>9:00 AM – Opening meeting at the Riverside County Executive offices</p> <p>9:30 AM – Interview regarding Development Planning and the implementation of SUSMP requirements</p> <p>1:30 PM – Office visit to discuss Monitoring</p> <p>4:00 PM – Closing Conference</p>	<p><i>Riverside County Flood Control and Water Conservation District and County of Riverside</i></p> <p><u>January 15th</u> Review of District's Monitoring Program</p> <p><u>January 16th</u> (AM) – Review of <u>private</u> development (PM) – Review of <u>public</u> development</p> <p><u>January 17th</u> Two teams with office and field activities Team 1 – Review of public Capital Improvement Projects (CIP) SUSMP applicability and field visits Team 2 – Review of private development SUSMP applicability, development, and maintenance</p>

Findings

Section F. Development Planning

Note: The permittee internally refers to the SUSMP program and required documents as Water Quality Management Plans (WQMPs). Hereafter, these terms are used interchangeably.

The organizational structure for the WQMP process is divided between private and public development sectors. The District solely leads and implements the WQMP process for all private development. District staff review incoming development plans, converse with the development community, and condition and approve submitted WQMPs. In terms of public development, the County has four separate organizational entities which are granted with building authority and therefore have WQMP obligations. These organizations include: EDA, Transportation Department, Facilities Management Department, and the Regional Park & Open-Space District. At the time of the initial inspection in September 2007, County representatives stated that District staff did not have any involvement or participation in the review of WQMPs for public development. During the course of the January 2008 inspection, County representatives stated that opportunities to involve District staff in WQMP reviews for public projects was being discussed but formal arrangements for shared services had yet to be determined or implemented. As such, while staff from the County's Executive Office provide guidance, each organizational entity was fully responsible for implementation of the County's WQMP program.

The inspection team visited a number of private WQMP projects in various stages of development to generally observe BMP selection, placement, operation, and maintenance. The WQMP project sites that were visited included: (1) Arco Gas Station (ID No. PA05-0127) and (2) Southern California Edison staging area (ID No. PA05-0036).

On-site inspection activities for public development projects focused primarily on the project sponsorship, design, and development activities of the EDA, the Transportation Department, and Facilities Management Department. The Regional Park & Open-Space District was not evaluated in depth as it was stated that the other three county entities frequently implement development projects on their behalf.

Summary Finding for Section F. Development Planning

With two exceptions (listed below as Findings 4 and 5), there were no adverse findings identified regarding the District's implementation of the Section F. Development Planning requirements for the private development community. District staff appeared well trained and knowledgeable with the implementation of the County's WQMP program and the use of post-construction BMPs and adequate procedures were in place to ensure identification of WQMP-applicable projects. Deficiencies were not identified at the private development sites visited during the inspection. Findings 4 and 5 address deficiencies identified with the appropriate identification of Pollutants of Concern (POCs) and application of effective BMPs and the use of an effective program to ensure ongoing maintenance of post-construction BMPs at commercial and industrial locations.

In contrast, while the County Transportation Department was implementing the WQMP program, the EDA and Facilities Management Department had yet to establish a WQMP program and were not identifying or conditioning WQMP-applicable projects. These entities appeared to be in their infancy of developing and implementing a WQMP program that would comply with, or meet the intent of, the Section F. Development Planning requirements. Regional Board Order No. R9-2004.001 Requirement F.2.(b) requires the District and County "Within 365 days of adoption of this Order, each Permittee shall develop, adopt, and implement a SUSMP to reduce pollutants to the MEP and to maintain or reduce downstream erosion and protect stream habitat from all Priority Development Projects." This required a SUSMP program to be developed, adopted, and implemented no later than July 15, 2005. As demonstrated during the inspection and substantiated in Findings 1, 2, and 3, the County was not in compliance with this provision. Furthermore, it is problematic that worthwhile and significant county-sponsored efforts to develop a Policy on Sustainable Development and construct a Leadership in Energy and Environmental Design (LEED) building would progress without reference to or incorporate the County's WQMP program (see Findings 2 and 3 below). The following significant deficiencies were identified with the County's implementation of the WQMP program for public projects.

1. Failure to Adopt and Implement a SUSMP. Regional Water Board Order No. R9-2004-001, Requirement F.2.b. requires the County to "develop, adopt, and implement a SUSMP to reduce pollutants to the MEP [maximum extent practicable] and to maintain or reduce downstream erosion and protect stream habitat from all Priority Development Projects." Pursuant to this requirement, the County has developed the Riverside County Water Quality Management Plan for Urban Runoff dated July 24, 2006 (hereafter, Riverside WQMP Manual). Internally, however, the County EDA and Facilities Management Department have not formally adopted or adequately implemented the Riverside WQMP Manual. Based on questioning by the inspectors, the County EDA and Facilities Management Department staff displayed partial knowledge of the MS4 permit requirements and were not knowledgeable or aware of the Riverside WQMP Manual itself. During the course of the inspection, copies of both documents were provided to County EDA staff for compliance assistance purposes. As a result, the County EDA and Facilities Management Department have not formally adopted or adequately implemented a SUSMP to reduce pollutants to the MEP and to maintain or reduce downstream erosion and protect stream habitat from all Priority Development Projects.

2. Failure to Develop a Process by which SUSMP Requirements will be Implemented. Regional Water Board Order No. R9-2004-001, Requirement F.2.b.(6), Implementation Process, requires the County to "develop a process by which SUSMP requirements will be implemented." Because the County EDA and Facilities Management Department had not implemented the Riverside WQMP Manual and associated procedures, these entities did not have a structured program in place for Capital Improvement Projects (CIPs) to: (1) identify all Priority Development Projects for applicability of the SUSMP requirements (see Finding 3), (2) require the development of Project-Specific WQMPs, (3) review Project-Specific WQMPs for compliance with the SUSMP requirements, or (4) ensure adequate long-term maintenance of constructed WQMP Best Management Practices (BMPs) (see Finding 5). During the inspection, both Facilities Management Department and EDA staff acknowledged that they did not have a structured WQMP program but stated that they were willing and eager to develop and implement

24

the SUSMP requirements. Facilities Management Department staff indicated that they were currently re-writing contracting specifications and would include WQMP requirements in future versions.

The Facilities Management Department Contract General Conditions dated March 2006 (hereafter, Contract General Conditions), states that the "contractor shall keep informed of, and comply with, all federal, state, and county laws, ordinances, rules, and regulations applicable to the Work." However, the language in the Contract General Conditions does not clearly specify that a project must be built in accordance with the Project-Specific WQMP. Furthermore, the Contract General Conditions do not reference or require the use of the Riverside WQMP Manual, a document which is intended to guide the development of an adequate Project-Specific WQMP. As a result, the County does not have an adequate mechanism to ensure that the SUSMP requirements will be implemented. This appeared substantiated by recent design and construction activities that have occurred without reference to, or incorporation of, a project-specific WQMP.

Additionally, County representatives stated that the County Board of Supervisors is currently in the process of establishing the County's policy on sustainable building. The draft Sustainable Building Policy document sets a minimum performance target to reuse and clean water onsite. Furthermore, the document states that "green building design will help to reduce operating costs associated with... storm water management." Despite the draft policy's effort to address the topic of storm water management, it does not establish minimum performance targets which are aligned with the WQMP requirements of Regional Water Board Order No. R9-2004-001. It is strongly recommended that the County leverage its policy on sustainable building to better integrate its land-use practices with its water quality goals and obligations. During the course of the inspection, County staff expressed that they were willing and eager to incorporate the WQMP program into the County's contract language and would explore opportunities to incorporate WQMP provisions into the policy on sustainable building. The County must develop a process by which SUSMP requirements will be implemented.

3. Failure to Identify WQMP-Applicable Projects. Regional Water Board Order No. R9-2004-001, Provision F.2.b, requires that each Permittee "review and ensure that all Priority Development Projects meet SUSMP requirements." Requirement F.2.b. of the Order defines Priority Development Projects as: "(a) all new development projects, and (b) those redevelopment projects that create, add or replace at least 5,000 square feet of impervious surfaces on an already developed site, that are listed under the project categories or locations in Requirement F.2.b.(1)."

The EDA and Facilities Management Department did not have a structured program to ensure that their County-sponsored CIPs are reviewed by a trained person or entity for WQMP applicability or to ensure the development, adequacy, or implementation of a Project-Specific WQMP. As stated by EDA and Facilities Management Department personnel, as of January 15, 2008 neither of these entities had developed a Project-Specific WQMP for a completed CIP. The Facilities Management Department had been actively approving CIPs during the current permit term and following the compliance date of July 15, 2005, without a structured WQMP program in place. For example, the proposed Southwest Justice Center (SWJC) Parking Lot Expansion is proposed to be located at 30755 Auld Road in unincorporated Murrieta, CA. The Facilities

Management Department Capital Project Status Report dated January 2008 (hereafter, Facilities CIP List), states that the project will include the addition of 390 parking spaces and that a contract agreement was being prepared (see attached Exhibit 1). Although this project qualifies as a Priority Development Project under F.2.b.(1)(b) and F.2.b.(1)(g) of the Order, the Facilities CIP List indicates that a contract agreement could be finalized without incorporating the SUSMP requirements for the project. As a result, the Facilities Management Department had not ensured that all Priority Development Projects meet SUSMP requirements.

Due to the limited availability of completed projects identified as Priority Development Projects by the County, the inspection team visited project sites in both the Santa Margarita River and Santa Ana River¹ watersheds. Activities conducted within the Santa Ana River watershed are regulated by Santa Ana Regional Water Board Order No. R8-2002-0011. Section VIII.B.1. of that Order requires that the WQMP address management of Urban Runoff quality from non-residential developments where the land area of the project site is 5,000 square feet or more. The WQMP requirements of Order No. R8-2002-0011, Section VIII.B.1., would apply to a number of CIP sites identified and visited during the inspections that did not adhere to these WQMP requirements. Examples include:

Rubidoux Fleet Services Facility – This \$14 million dollar project was constructed under the administration of the EDA at the intersection of Crestmore Road and Mission Boulevard in unincorporated Rubidoux, CA. The project consists of a five acre municipal facility which provides vehicle maintenance, parking for 175 vehicles, and 5,000 square feet of office space. The project design was completed in December 2005 and construction was completed in July 2007. The facility was visited during the inspection and County representatives confirmed the project was designed and completed without a WQMP and associated post-construction BMPs. Information regarding the project (as well as others in the area) are available at <http://district2.co.riverside.ca.us/opencms/districthappenings.html>.

Woodcrest Community Library – This library was also constructed under the administration of the EDA at 17024 Van Buren Boulevard in unincorporated Riverside, CA. Groundbreaking ceremonies for the library occurred on November 2, 2006 and the project was opened to the public on November 10, 2007. The library consists of a 10,000 square foot LEED (Leadership in Energy and Environmental Design) certified building. Although the Woodcrest Library project implemented a number of post-construction BMPs, it is located on an approximate 2 acre project site and was not constructed in accordance with the aforementioned WQMP requirements or the associated Riverside WQMP Manual procedures. Information regarding the project is available at <http://appsweb.co.riverside.ca.us/news/process?action=viewPressRelease&id=1769>.

Although not visited during the inspections, the WQMP requirements of Order No. R8-2002-0011, Section VIII.B.1., would appear to apply to a number of additional CIPs which are currently being designed and/or constructed under the administration of the Facilities Management Department as follows: (1) the County Mental Health Department's Riverside Safe Haven located at 2800 Hulen Place in Riverside, CA; and (2) the County Community Health Agency's Administrative Building expansion. The County must apply the WQMP requirements

¹ Inspection activities in the Santa Ana River watershed were granted pre-inspection authorization by the Santa Ana Regional Water Board.

and associated Riverside WQMP Manual procedures to the categories of development identified in Order No. R8-2002-0011, Section VIII.B.1.

Due to the likelihood that additional CIPs qualify as a Priority Development Project, the County must review all current and proposed CIPs within both the Santa Margarita and Santa Ana River watersheds for WQMP applicability and develop a list of these projects including all data necessary to determine whether the CIPs qualify as a Priority Development Project, including but not limited to: land use, land area for development, area of impervious surface created or replaced, number of dwelling units, proximity to an ESA(s), and all other data relating to the Priority Development Project Categories specified in Requirement F.2.b.(1) of Order No. R9-2004-001 and Requirement VIII.B.1.b of Order No. R8-2002-0011. As a component of the list, the County shall make an initial Priority Development Project Category determination regarding the need for a WQMP and supporting rationale. The resulting list must be submitted to both the San Diego and Santa Ana Regional Water Boards.

4. Implementation of a Process to Ensure BMPs are Effective at Removing or Treating the Pollutants of Concern Associated with the Project. Regional Water Board Order No. R9-2004-001, Requirement F.2.b.(2)(d) requires that WQMP BMPs "be effective at removing or treating the pollutants of concern associated with the project." The County did not have an adequate procedure for requiring the application of BMPs which are effective at removing or treating the POCs associated with Capital Improvement Projects and Private Development. The County's procedure only required the review of plans for appropriate BMPs when the CIP's receiving waters are CWA Section 303(d) listed waters for the identified POCs. Regional Water Board Order No. R9-2004-001, Requirement F.2.b.(5), Pollutants or Conditions of Concern, states that "the procedure shall 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; (3) Pollutants expected to be present on site; (4) Changes in storm water discharge flow rates, velocities, durations, and volumes resulting from the development project; and (5) Sensitivity of receiving waters to changes in storm water discharge flow rates, velocities, durations, and volumes."

Due to the lack of an adequate procedure for requiring the application of appropriate BMPs for identified POCs, it appeared that project proponents (i.e., developers or consultants retained by the county) could propose any BMP or suite of BMPs listed in the County's WQMP Manual regardless of the BMPs applicability to items 1 through 5 above. This in turn could lead to the deployment of permanent post-construction BMPs that are ineffective at removing or treating the suite of POCs associated with a project. The following project exemplifies this problem.

Site: Clinton Keith Road Widening from George Avenue to Copper Craft Drive located in unincorporated Murrieta, CA 92562

Regional Water Board Order No. R9-2004-001, Requirement F.2.b.(2)(d) requires that WQMP BMPs "be effective at removing or treating the pollutants of concern associated with the project." Pursuant to this requirement, the Riverside WQMP Manual, Section 4.5.3 Treatment Control BMPs, states that "for identified Pollutants of Concern (POCs) that are causing

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impairments in receiving waters, the Project-Specific WQMP shall incorporate one or more Treatment Control BMPs of at least *medium* efficiency [emphasis added].” The Transportation Department hired URS Corporation to prepare a WQMP for this project. The Project-Specific WQMP dated May 11, 2007, Section III. Pollutants of Concern, identifies both Murrieta Creek and the Santa Margarita River as receiving waters for this CIP. The Final 2006 CWA Section 303(d) List of Water Quality Limited Segments identifies the entire length of Murrieta Creek (12 miles) as impaired for the following: iron and manganese (metals), and nitrogen and phosphorus (nutrients); and the upper portion of the Santa Margarita River (18 miles) as impaired for phosphorus. The Project-Specific WQMP selected Fossil Filter Inserts (County Standard No. 300A) to be installed on all catch basins throughout the project extent, even though the BMPs have an unknown (U) removal efficiency for the POCs identified in the Final 2006 CWA Section 303(d) List of Water Quality Limited Segments (metals and nutrients), (see attached Exhibit 2).

The Department of Transportation also hired Bureau Veritas North America, Inc. (BVNA) to conduct a third party review of the Project-Specific WQMP. BVNA’s technical review memorandum dated, June 15, 2007, identifies this deficiency as it states “Catch Basin Filter Inserts are not an appropriate BMP for this project because...they do not treat the primary pollutants of concern (those generated by the site and also found in the receiving waters) to a medium/high removal efficiency level. Select a more appropriate BMP that RCTD [Riverside County Transportation District] approves and that provide the required treatment.” Additional documentation and/or revisions to the WQMP were not available during the inspection and therefore it was not determined if the Project-Specific WQMP had been revised accordingly. However, it should also be noted that construction activities had not yet commenced on the project.

The selection of BMPs which are protective of POC levels will be vitally important as TMDLs continue to be adopted and implemented in the permittee’s jurisdiction. Furthermore, the selection of WQMP BMPs which are effective for the identified POCs is more likely to result in measurable and tangible water quality improvement. The County must select WQMP BMPs which are effective at removing or treating the pollutants of concern associated with the project. Additionally, for identified POCs that are causing impairments in receiving waters, the County must ensure that the Project-Specific WQMP incorporates one or more Treatment Control BMPs of at least *medium* efficiency.

5. Failure to Implement a Process to Ensure Ongoing Maintenance: Regional Board Order No. R9-2004-001, Requirement F.2.b.(6), Implementation Process, requires the County to “develop a process by which SUSMP requirements will be implemented.” Furthermore, Requirement F.2.b.(2)(j), BMP Requirements, requires that BMPs shall: “Include proof of mechanism, to be provided by the project proponent or Permittee, which shall ensure the ongoing long-term BMP maintenance.” The County did not have a mechanism in place to add those new private development projects without Conditions, Covenants, and Restrictions (CC&Rs), such as restaurants, to the its inventory of BMPs. The County’s current process appeared adequate for residential developments but did not appear to be effective for commercial or industrial developments. As a result, the County did not provide an adequate mechanism to ensure that all BMPs are maintained as required. Further, the County was not tracking the ongoing maintenance of BMPs. Specifically, required maintenance, maintenance history, inspection

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results, and physical characteristics were not tracked. To ensure compliance with the requirements presented above, the County needs to develop and implement a system to more effectively track deployment, ownership, and maintenance of WQMP BMPs associated with commercial and industrial developments to ensure adequate long-term maintenance of the BMPs.

Section L. Monitoring and Reporting Program

The District has entered into interlocal agreements with the copermittees to implement the Monitoring and Reporting Program (MRP) as required by Order R9-2004-001. The MRP is organized as follows:

MRP Section I. Purpose. The MRP is intended to meet the following goals:

1. Assess compliance with Order R9-2004-001;
2. Measure and improve the effectiveness of the SWMPs;
3. Assess the chemical, physical, and biological impacts of receiving waters resulting from urban runoff;
4. Characterize urban runoff discharges;
5. Identify sources of 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 the receiving waters.

MRP Section II. Monitoring Program. The Monitoring Program consists of the following elements:

- A. Receiving Waters Monitoring
 - A.I Core Monitoring²
 1. Mass Loadings
 2. Water Column Toxicity Testing
 3. Bioassessment
 4. Follow-up Actions Based on Triad Approach
 5. Tributary Monitoring
 - A.II Regional Monitoring
 - A.III Special Studies
- B. Illicit Discharge Monitoring
- C. Monitoring Provisions

MRP Section III. Reporting Program. The Reporting Program consists of the following elements:

- A. SWMP Reporting Requirements
 1. Individual Annual Report
 2. Watershed Annual Report
- B. Receiving Waters Monitoring Reporting Requirements
 1. Monitoring Program Annual Report
- C. Certified Perjury Statement

² The Mass Loadings, Water Column Toxicity Testing, and Bioassessment monitoring components of the Core Monitoring section are collectively referred to as the triad approach.

The inspection activities conducted in September 2007 and January 2008 focused primarily on the Districts implementation of the Section II. Monitoring Program and Section III.B Monitoring Program Annual Report requirements. The inspection included interviews with District personnel and their consultants and a review of the District's 2006 - 2007 Monitoring Annual Report submitted pursuant to Section III.B.1. With the exception of an overall finding relating to the purpose and goals of the monitoring program, which is presented last, the remainder of this report is organized to follow the MRP outline presented above.

MRP Section II.A.I.1 Core Monitoring.

The District has established the following four triad monitoring stations for wet and dry weather monitoring:

Triad Stations:

Temecula Creek below Pala Road – Station No. 777 (Lower Temecula Creek)

Lower Murrieta Creek @ USGS Weir – Station No. 778

Cole Creek – Station No. 188

Adobe Creek – Station No. 848

The District stated that Cole Creek is used as a wet weather reference station while Adobe Creek serves as a dry weather reference station.

The following findings were identified with respect to the District's implementation of triad monitoring.

6. Failure to Collect Wet Weather Mass Loading Samples. Monitoring and Reporting Program No. R9-2004-001, Section II.A.1(b), requires the Permittees to monitor the first storm event of each monitoring year that produces sufficient flow to collect a composite sample, and a minimum of two additional storm events during each monitoring year at each triad station (i.e., a total of three storm events are required to be sampled). During monitoring year 2006 - 2007, the District failed to obtain the required number of wet weather mass loading samples at all triad stations. Specifically, no wet weather samples were collected at the Cole Creek wet weather reference station, one wet weather sample was collected at the Lower Murrieta Creek station, and one wet weather sample was collected at the Temecula Creek station. [These samples were improperly collected – see Finding 9 below.] A summary of the District's mass loading sampling is provided as Exhibit 3. The exhibit was compiled based on the District's Field Data Sheets for the 2006 – 2007 reporting period that were obtained during the January 2008 inspection.

It should be noted that based on Table G-10 of the District's 2006 – 2007 Annual Monitoring Report and a review of Field Data Sheets, the Mass Loading sites were only visited during three wet weather events during the monitoring year. These dates included December 16, 2006, February 22, 2007, and April 20, 2007. The lone wet weather sample was obtained during the April 20, 2007 event. Precipitation data provided in Table G-8 of the 2006 – 2007 Monitoring Annual Report indicates that at least 8 precipitation events of greater than 0.1 inch occurred during the reporting period.

Additionally, the District only conducted one site visit to the Cole Creek triad monitoring station during the monitoring year. During this single visit it was determined that flow in the waterway was insufficient to obtain a composite sample. For the storm event on April 20, 2007 (when the other Mass Loading stations were sampled), District representatives stated that the Cole Creek site was not visited because the District assumed that the site would not have flowing water.

7. Failure to Monitor First Storm Event. Monitoring and Reporting Program No. R9-2004-001, Section II.A.1(b), requires the Permittees to monitor the first storm event of each monitoring year (July 1 through June 30) that produces sufficient flow to collect a composite sample, and a minimum of two additional storm events during each monitoring year at each triad station. The District is using the Riverside County Consolidated Monitoring Program for Water Quality Monitoring dated September 2007 (hereafter, Consolidated Monitoring protocol) as its procedure manual for the monitoring programs. The Consolidated Monitoring protocol defines a measurable storm event in accordance with an EPA classified storm event as follows: greater than 0.1 inch of accumulated precipitation preceded by 72 hours of dry weather. Furthermore, the Consolidated Monitoring protocol amends the 72 hour mark to include storms within that time frame that produce flow, given the first storm may not produce sufficient flow to collect a sample.

Based on available precipitation and USGS stream flow data, it appears the District failed to obtain the required samples during the first storm event that produced sufficient flow in monitoring year 2006 - 2007. A detailed review of the Lower Murrieta Creek monitoring station (Station No. 778) was conducted to be representative of the failure to obtain samples as follows:

Based on precipitation data provided in Table G-8 of the 2006 - 2007 Monitoring Annual Report, the first measurable storm event in monitoring year 2006 - 2007 at the Murrieta Creek weather station was recorded as 0.59 inches on September 6, 2006. The District did not complete a site visit during this event and District staff cited their Consolidated Monitoring protocol amendment regarding insufficient flow for sample collection during the first storm event. Data obtained from the USGS gaging station on Murrieta Creek (USGS Station No. 11043000), which is 600 feet downstream of the sample location, substantiated the lack of flow as the recorded flow measurement was less than 0.10 cubic feet per second (cfs). The second measurable storm event in the Murrieta Creek watershed was recorded as 0.13 inches on October 14, 2006, but based on USGS flow records also did not result in sufficient flow to obtain samples. The first measurable storm event of monitoring year 2006 - 2007 that resulted in sufficient flow to obtain a sample at the District's Murrieta Creek weather station was recorded as 0.29 inches on December 10, 2006. A flow of 30 cubic feet per second (cfs) was recorded at USGS Station No. 11043000 on December 10, 2006, however the District did not complete a site visit nor did they obtain samples during this event. As stated in the 2006 - 2007 Monitoring Annual Report, "During storm events, sampling is conducted at the USGS Gage House, upstream of the USGS weir due to safety." [Additionally, the District did not complete site visits or obtain any samples from either the Cole Creek or Lower Temecula triad monitoring stations during this event.]

Based on a review of USGS streamflow data for the Murrieta Creek watershed, it appears that five instances of measurable flow occurred between September 6, 2006 and April 21, 2007 that

resulted in sufficient flow for obtaining wet weather samples in the Murrieta Creek. In these instances, the streamflow equaled or exceeded the stream flow present during the April 20, 2007 sampling event. A complete assessment of streamflow present within Murrieta Creek is attached to this report as Exhibit 4.

Based on the above information, the District appears to have an inadequate process for the identification and mobilization of sampling efforts to obtain monitoring data. The District heavily relies upon guidelines that use both the Quantitative Precipitation Statement (QPS) of forecasted precipitation events and antecedent moisture condition (AMC) within the watershed to identify opportunities to collect wet weather samples. The District stated that sample mobilization does not occur unless the QPS predicts a storm greater than 0.5 inches. It should be noted that use of 0.5 inches as a qualifying event contradicts the District's own procedures as presented in Section 3.A of the Consolidated Monitoring protocol. It appeared that this process may allow measurable storms to occur without being sampled (or at least field verified). Additionally, the QPS tracking does not begin until mid October which is after the onset of the wet season. The District representative stated that storms are tracked prior to the initiation of the QPS in October, but that mobilization does not commonly occur due to the fact that QPS predictions are often unreliable.

It appears that the District is challenged in obtaining samples from the triad stations due to problems with the mobilization process. For instance, the District does not appear to be timing site visitation with an expected time of actual flow. This is evident in the February 22, 2007 site visit to the Murrieta Creek monitoring station for obtaining wet weather sampling of an anticipated storm event. According to the Field Data Sheet (Exhibit 5), the site visit was conducted prior to the time of sufficient flow (as documented at the USGS gaging station, see Exhibit 4). The Consolidated Monitoring protocol references USEPA's storm classification and sample collection procedures (i.e., USEPA Stormwater Sampling Guidance Document 833-8-92-001 (July 1992)) specifying that composite samples should be taken during the first 3 hours of the storm or for the entire duration of the storm (if the event is less than 3 hours long). However, based on a review of Field Data sheets and USGS flow data, it appears that there is a disconnect between the timing of the site visits compared to the expected time that the wet weather flow would actually reach the monitoring station. The District should evaluate this procedure in light of other sampling requirements and commitments and make recommendations to the Regional Water Board regarding possible remedies.

8. Failure to Provide Written Explanation for Lack of Sampling. Monitoring and Reporting Program No. R9-2004-001, Section II.A.1(c), requires that "in the event that the required number of storm events are not sampled during one monitoring year at any given station, the Permittees shall submit, with the subsequent Annual Report, a written explanation for a lack of sampling data, including streamflow data from the nearest USGS gaging station." The 2006 - 2007 Monitoring Annual Report did not include a written explanation for the lack of mass loading sampling data at the triad stations, nor did the District provide streamflow data from the USGS gaging station or any other type of flow monitoring data that indicated that streamflows were not sufficient to collect the required samples.

District staff stated during the inspection that the watershed received very little rainfall during the reporting period which resulted in the failure to collect the required number of samples. Because the required number of storm events were not sampled during monitoring year 2006 - 2007 at all triad stations, the District must submit a written explanation for the lack of sampling data, including streamflow data from the nearest USGS gaging stations, to explain why the District did not monitor the required number of storm events.

9. Failure to Adhere to Required Monitoring Provisions. Monitoring and Reporting Program No. R9-2004-001, Section II.A.1(f), requires that "mass loading sampling and analysis protocols shall be consistent with 40 CFR 122.21(g)(7)(ii) and with the EPA Storm Water Sampling Guidance Document (EPA 833-B-92-001). Storm water samples shall be flow-weighted composites, collected during the first 3 hours of flow, or for the duration of the storm if it is less than 3 hours." The mass loading samples collected by the District at the triad stations do not conform with the referenced guidance documents as the District did not collect flow-weighted composite samples, and also did not adequately document whether the samples were collected during the first 3 hours of flow or for the duration of the storm when it is less than 3 hours. The District did not obtain composite samples from the triad stations during the sampling events conducted in monitoring year 2006 - 2007 as required by Section II.A.1(f) of the MRP. The District's Field Data Sheets indicate that the mass loading samples collected during the monitoring year at the triad stations were obtained as grab samples instead of the required composite samples. These samples include wet weather sampling events on April 20, 2007 at the Temecula Creek and Lower Murrieta Creek monitoring stations. This departure from the established Consolidated Monitoring protocols and Order requirements was not disclosed within the 2006 - 2007 Monitoring Annual Report. The reliance on grab samples was only identified after reviewing Field Data Sheets and questioning by the inspectors. The District must collect storm water samples which are flow-weighted composites, collected during the first 3 hours of flow, or for the duration of the storm if it is less than 3 hours.

10. Failure to Monitor First Storm Event for Full EPA Priority Pollutant List. MRP No. R9-2004-001, Section II.A.1(h), requires that at the triad stations, the first storm of every sampling year be analyzed for the full EPA priority pollutant list as defined in 40 CFR 122, Appendix D. The District's 2006 - 2007 Monitoring Annual Report states in Section G-6.1.1 that "During the first storm event of the reporting period, samples collected at the Triad stations were analyzed for the complete list of priority pollutants (40 CFR 122, Appendix D)." A review of the actual monitoring results reported in the District's Monitoring Annual Report revealed that the full list of priority pollutants was not actually completed as the samples collected on April 20, 2007 were not analyzed for bacteria and nutrients. 40 CFR 122, Appendix D, Table IV (Conventional and Non-conventional Pollutants Required To Be Tested by Existing Dischargers if Expected to be Present) lists bacteria and nutrients to be sampled if expected to be present in the receiving water.

It is reasonable to believe that nutrients and bacteria are present in the receiving waters of Cole Creek, Temecula Creek, Lower Murrieta Creek, and Adobe Creek based upon the following:

(1) There are CWA Section 303(d) impairments in the Santa Margarita River watershed for nutrients. Specifically, the Final 2006 CWA Section 303(d) List of Water Quality Limited

Segments identifies the entire length of Murrieta Creek (12 miles) as impaired for nitrogen and phosphorus (nutrients); and the upper portion of the Santa Margarita River (18 miles) as impaired for phosphorus; and

(2) The Water Quality Control Plan for the San Diego Basin, dated September 8, 1994 (hereafter, Basin Plan) specifies Water Quality Objectives (WQO) for fecal coliform. Fecal coliform is listed in Table G-27 of the District's 2006-2007 Monitoring Annual Report (Summary of Constituents of Concern) as detected above the WQO at Temecula Creek during one dry weather event and detected above the WQO at all tributaries during wet weather.

(3) The District collected samples for both nutrients and bacteria during their April 20, 2007 wet weather sampling at their tributary stations. Fecal coliform bacteria and nutrients were found to exceed the WQO in 7 of 8 bacteria samples and 10 of 10 nutrient samples, respectively.

(4) The District sampled for bacteria and nutrients during the October 17, 2006 and May 10, 2007 dry weather sampling events at both the Murrieta and Temecula Creek stations.

For these reasons, it is unclear why the District would fail to monitor for bacteria and nutrient during the single wet weather sampling event of the monitoring season. Pursuant to MRP No. R9-2004-001, Section II.A.1(h), the District must ensure that during the first storm event of the reporting period, samples collected at the Triad stations are analyzed for the complete list of priority pollutants (40 CFR 122, Appendix D).

Pages G-45 through G-63 of the District's 2006 – 2007 Monitoring Annual Report is attached to this report as Exhibit 7.

11. Failure to Conduct Follow-up Analysis and Actions Based on Triad Approach.

Monitoring and Reporting Program No. R9-2004-001, Section II.A.I.4, establishes a matrix of required follow-up actions based on the results of the triad monitoring. As presented in section G-6.4.3 of the 2006 – 2007 Monitoring Annual Report, the District states that "During the 2004-2005 and 2005-2006 reporting periods, toxicity to *Hyalella* was observed in 1 of 3 and 3 of 4 stormwater collections respectively, for both Temecula and Murrieta Creeks." During the course of the September 2007 and January 2008 inspections, the District stated that they examined the results and internally determined with their consultants that the results were not valid because the WET test species were coated with microorganisms that they believed to be the cause of the observed toxicity. It was stated that for this reason the District did not initiate a TIE in either 2005 or 2006 as is required by the permit. During the 2006 – 2007 reporting period, toxicity was again observed for *Hyalella*, however this time the District's consultant determined that, while present, the microorganisms were likely not the cause of the identified toxicity. The District subsequently initiated the required TIE procedure, which identified pyrethroids as the toxicant. The District conducted the TIE in May and June of 2007 and received the final results on July 7, 2007. Pursuant to Monitoring and Reporting Program No. R9-2004-001, Section II.A.4 Table 2, the District should have initiated a TIE following the evidence of toxicity in the previous monitoring years.

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Furthermore, Monitoring and Reporting Program No. R9-2004-001, Section II.A.4(b) requires a Toxicity Reduction Evaluation (TRE) be conducted immediately upon the completion of a Toxicity Identification Evaluation (TIE) that identifies a pollutant(s) associated with urban runoff as a cause of any identified toxicity. The District did not initiate a TRE immediately upon completion of the TIE. As of the September 20, 2007 inspection, the District had yet to initiate the TRE process. During the January 2008 inspection, the District stated that a TRE had been initiated but they did not intend on submitting the TRE until submittal of their 2007-2008 Monitoring Annual Report which is due on or before October 31, 2008. Section II.A.4(b) requires that once the source of toxicity and appropriate BMPs are identified that the permittee submit the TRE to the Regional Water Board for review. As such, the District is strongly encouraged to submit the TRE report and associated program changes to the Regional Water Board for review immediately upon its completion.

MRP Section II.A.I.5. Tributary Monitoring

12. Failure to Analyze for Constituents of Concern and Collect Dry Weather Tributary Samples. Monitoring and Reporting Program R9-2004-001, Section A.I.5.a) Tributary Monitoring, states the permittees “shall collect a grab sample from the first storm event of each monitoring year, a minimum of one additional storm event, and two dry weather events during each monitoring year at the following four tributary stations to help identify sources of pollutants.” This requirement equates to the collection of two wet weather and two dry weather samples. The District has identified the following four tributary stations:

- Warm Springs Creek – Station No. 397
- Lateral A of Santa Gertudis Creek – Temecula – Station No. 774
- Long Canyon – Station No. 780
- Redhawk Channel downstream of Overland Drive – Station No. 768

Monitoring and Reporting Program R9-2004-001, Section A.I.5(c) states “tributary samples shall be analyzed for the constituents of concern...” Table G-2 of the District’s 2006 – 2007 Monitoring Annual Report identifies the Constituents of Concern. Page G-4 of the 2006 – 2007 Monitoring Annual Report states “Per the MRP, monitoring of the tributary stations consists of collection of grab samples during the first storm event, an additional storm event and two dry weather events. The samples will be analyzed for the Constituents of Concern listed in Table G-2.” Section G-6.1.2 Core Monitoring – Tributary Stations (page G-47) states “Four dry weather and two wet weather sampling events were monitored at the Tributary stations during the 2006-2007 reporting period. Wet weather samples were analyzed for the Constituents of Concern in Table G-2. Dry weather samples were collected and analyzed as described in the Illicit Connection/Illicit Discharge (IC/ID) discussion in Section 7.3.5.” This procedure of analyzing dry weather samples per the IC/ID field screening procedure is a departure from the MRP requirements and the District’s own procedures. Both dry and wet weather samples should have been analyzed for the Constituents of Concern.

This departure appears to be due, in part, to the fact that the District has elected to use their four tributary stations as their illicit discharge stations. Based on a review of Field Data Sheets, it appears that field crews were either unaware, or became confused, regarding the need to collect a

complete suite of parameters listed in Table G-2 during the dry weather events. Instead, the field crews appeared to have only collected the field screening data conducted as a component of the IC/ID program. Nonetheless, the District did not collect the full suite of parameters listed in Table G-4 during the dry weather sampling events.

Additionally, as displayed in Table G-12: Detected Results, the District collected only one dry weather sample at the Santa Gertudis Creek station and no dry weather samples at the Warm Springs Creek. As reported in Table G-31 of the 2006 – 2007 Monitoring Annual report, the Long Canyon, Santa Gertudis Creek, and Warm Springs Creek stations were only visited on September 14, 2006 and March 20, 2007. Additional efforts to collect the dry weather samples were not performed and therefore it does not appear that the District took all reasonable steps to acquire the required samples.

Further, the District did not collect bacteria samples during the first wet weather event on December 16, 2006 at the Long Canyon, Redhawk Channel, Santa Gertudis Creek, and Warm Springs Creek tributary stations. Bacteria samples were not collected during the September 14, 2006 sampling event at Long Canyon, Santa Gertudis Creek, and Warm Springs stations. During the course of the January 2007 inspection, the District stated that bacteria sampling has been difficult due to an inability to meet holding times at the contract laboratory. As a result, many of the collected bacteria samples have not been analyzed or reported.

It should be noted that the District did not proactively identify the above deficiencies and departures from the MRP requirements and their own Consolidate Monitoring protocols. Rather, the District states in Section G-6.1.2 Core Monitoring – Tributary Stations (page G-47) that “Four dry weather and two wet weather sampling events were monitored at the Tributary stations during the 2006-2007 reporting period.” This statement is proven to be false.

Pages G-45 through G-63 of the District’s 2006 – 2007 Monitoring Annual Report is attached to this report as Exhibit 7.

MRP Section II.B. Illicit Discharge Monitoring

13. Effectiveness of Illicit Discharge Monitoring Locations. Monitoring and Reporting Program No. R9-2004-001, Section II.B.1(a), Illicit Discharge Monitoring, requires that “stations shall be accessible points in the MS4 (i.e., outfalls, manholes or open channels) located downstream of potential sources of illicit discharges (i.e., commercial, industrial, and residential areas). Permittees shall use the MS4 map, developed pursuant to section J.2 of Order No. R9-2004-001, to help locate dry weather monitoring stations and to determine the number necessary to adequately represent the entire MS4.”

As previously stated, the District selected the four tributary sites as their illicit discharge monitoring sites. These sites are located within the receiving streams and/or within open channel systems that routinely contain standing or ponded water throughout much of the year. As a result, the usefulness of these locations in identifying unauthorized dry weather discharges to the MS4 and eliminating their respective source(s) was questionable. The District should consider

- Samples collected at the Mass Loading stations were not analyzed for the complete list of EPA priority pollutants during the first wet weather storm event of monitoring year 2006/2007;
- The District did not monitor the required number of dry weather events at the tributary stations nor did they appear to take all reasonable steps to attempt to comply with the monitoring requirements.
- Tributary station sample analyses were not conducted in accordance with MRP requirements or the Districts own procedures;
- The number and location of illicit discharge monitoring stations did not appear to be effective or sufficient to represent the MS4 and detect illicit discharges that may occur throughout the system; and
- As stated by District personnel, the sampling program and efforts are purposely structured so as to meet the minimum requirements contained within the MRP;
- The District failed to proactively identify known departures from their established sampling protocols and the permit requirements within their 2006 – 2007 Monitoring Annual Report. Several of these issues were only identified after record reviews conducted on-site by the inspection team.

Furthermore, as presented in Section A.I of the MRP, the triad and tributary Core Monitoring requirements are intended to generate water quality data that will build upon existing data to begin answering the following management questions:

- Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
- What is the extent and magnitude of the current or potential receiving water problems?
- What is the relative urban runoff contribution to the receiving water problem(s)?
- What are the sources of urban runoff that contribute to receiving water problems(s)?
- Are conditions in receiving waters getting better or worse?

Clearly, the task of generating sufficient data to answer these important management questions is not a trivial exercise. Based on the current design and implementation status of the Districts monitoring program, the ability of the District to begin answering the management questions at the end of the current Order term appeared questionable. In part, the District acknowledges this assessment as stated in Section G-6.4.6 of the Monitoring Annual Report.

Section III.B.1(d) of the MRP requires the permittees to submit a fourth-year Monitoring Report that shall include:

- A discussion of any long-term trends that can be detected from existing data (from all previous permit terms).
- Recommendations for future monitoring based on the results of previous efforts and the progress towards answering the management questions listed in Section II.A of the MRP and achieving the goals listed in Section I of the MRP.
- Recommended modifications to Individual or Watershed SWMPs to address identified source of pollutants in urban runoff.

As such, the District is encouraged to thoroughly evaluate the stated purpose, extent, existing data, and procedures of its monitoring program to ensure that the upcoming fourth-year *Monitoring Report* meets the objectives of the requirements.

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