



City Council Staff Report

September 17, 2014

CONSENT CALENDAR

Subject: APPROVAL OF A MUNICIPAL STORMWATER IMPLEMENTATION AND COST-SHARING AGREEMENT

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

The 2013 National Pollutant Discharge Elimination System (NPDES) and Municipal Separate Storm Sewer Systems (MS4) Permit for Waste Discharge Requirements within the Whitewater River Watershed has now been finalized by the California Regional Water Quality Control Board (CRWQCB) – Colorado River Basin Region and is now recommended for City Council to approve the Implementation and Cost-Sharing Agreement that has been developed and administered by the Riverside County Flood Control and Water Conservation District. Prior agreements should be terminated, to be replaced in full by the proposed Municipal Stormwater Implementation and Cost-Sharing Agreement.

RECOMMENDATION:

- 1) Terminate Agreement No. 5624, approved March 5, 2008;
- 2) Approve Agreement No. _____, a Municipal Stormwater Implementation and Cost-Sharing Agreement, dated June 20, 2014, by and between the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (RCFC&WCD), the COUNTY OF RIVERSIDE, the COACHELLA VALLEY WATER DISTRICT, and the CITIES of BANNING, CATHEDRAL CITY, COACHELLA, DESERT HOT SPRINGS, INDIAN WELLS, INDIO, LA QUINTA, PALM DESERT, PALM SPRINGS and RANCHO MIRAGE ("CITIES") (all, individually, "PARTY" and collectively, "PARTIES") to establish the responsibilities of each PARTY concerning certain compliance and financial responsibilities in connection with requirements relating to stormwater as established under the federal Clean Water Act, 33 U.S.C. § 1342(p) ("CWA") and California law, including the National Pollutant Discharge Elimination System ("NPDES") Municipal Separate Storm Sewer

System (“MS4”) Permit issued by the California Regional Water Quality Control Board - Colorado River Basin Region (“CRWQCB-CRB”) pursuant to Order No. R7-2013-0011 (the “2013 PERMIT”); and

- 3) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

The NPDES Program is a federally mandated program to control non-point sources of runoff pollution. In 1972, the Federal Water Pollution Control Act (Clean Water Act) was amended to provide that discharge of pollutants to waters of the United States from any point source is effectively prohibited, unless the discharge is in compliance with a NPDES Permit. The Clean Water Act was amended in 1987 to establish a framework for regulating municipal and industrial stormwater discharges under the NPDES Program. In 1997, the City adopted Chapter 8.70 of the Municipal Code which incorporates regulations of the NPDES Program.

The City is one of several co-Permittees to the NPDES Permit issued to RCFC&WCD by the CRWQCB. Issued for 5-year terms, the NPDES Permit regulates the City's current NPDES Program. The previous Permits required a similar Implementation Agreement that facilitates the cooperative efforts of all of the associated co-Permittees, those being: RCFC&WCD, the County of Riverside, the Coachella Valley Water District (CVWD), and the cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage.

The Implementation Agreement generally requires the co-Permittees' cooperative efforts to enforce the NPDES regulations, such as: regulation and enforcement of local ordinances, inspection and reconnaissance surveys of municipal storm drain systems, submittal of required reports and information to CRWQCB through RCFC&WCD, and implementation of the Best Management Practices (BMP's) and/or programs and activities to ensure compliance with the NPDES Permit. The Implementation Agreement also outlines cost-sharing requirements related to the NPDES Permit, which are related to: public education, monitoring, sampling, inspection, enforcement, and reporting. The City of Palm Springs is excluded from costs associated with public education and monitoring programs, as these costs are covered by a previously adopted Whitewater Watershed Benefit Assessment Area that assesses fees to property owners for costs associated with the NPDES Program. The City of Palm Springs is required to participate in cost sharing related to consultant services necessary to prepare manuals or develop programs and prepare studies relevant to the NPDES Permit, as well as cover the individual co-Permittee fee for the NPDES Permit. The City's share of the consultant services cost is apportioned based on the population of the cities and County, with fixed percentages for RCFC&WCD and CVWD.

Similar Implementation Agreements were approved by the City of Palm Springs on September 3, 1997 (A3846), February 18, 2004 (A4829) and the latest on March 5, 2008 (A5624), which were related to the prior NPDES Permits. The prior agreement

should be terminated and be replaced in full by the proposed Municipal Stormwater Implementation and Cost-Sharing Agreement, which will provide for a continuation of the cooperative efforts required to implement the NPDES Permit and its regulations among all of the various agencies that participate in the NPDES Permit.

The Implementation Agreement that the City adopted in 2008 that fulfilled the requirements of the five-year National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit expired when the 2013 MS4 Permit was approved at the California Regional Water Quality Board (CRWQCB) meeting on June 20, 2013. Although approved, implementation could not occur until the Executive Officer of the California Regional Quality Control Board of the Colorado River Basin Region had approved the revised versions of the Storm Water Management Plan (SWMP), the Water Quality Management Plan (WQMP) and the Best Management Practice Handbook for the Whitewater River Region. To maintain coverage, the County had requested that all agencies execute a one-year amendment to the 2008 Implementation Agreement. City Council approved the First Amendment to the NPDES Storm water Discharge Permit Implementation Agreement (A5624) on July 3, 2013. That extension has now expired and the final 2013 Permit has been approved.

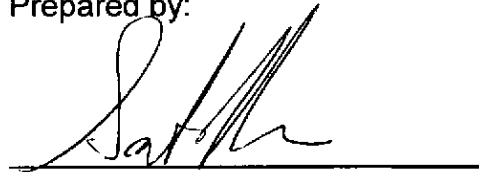
Staff recommends the Agreement be approved as presented, as it continues an existing cooperative effort between the various agencies that participate in the Whitewater River Municipal Stormwater Permit issued to RCFC&WCD on behalf of the City, who is a co-Permittee to the NPDES Permit. The proposed Agreement has been reviewed and approved by the City Attorney.

FISCAL IMPACT:

NPDES Program costs have continued to increase as consultant services on behalf of the co-Permittees were necessary in the negotiation of a new NPDES Permit with the CRWQCB. Costs to the City for fiscal year 2013/2014 were \$43,970.82. Estimated Costs for fiscal year 2014/2015 are \$54,485.89 as the NPDES Permit negotiation is completed with the CRWQCB. See Attachment 1 for a break-down of estimated NPDES Program costs shared among the co-Permittees and administered by the RCFC&WCD. The Agreement maximizes cost savings to all co-Permittees by centralizing what would be individual program costs required of each Permittee. The NPDES Program costs are budgeted each year as part of the Public Works and Engineering Department budget and paid for out of County Service Area (CSA) 152 Funds.

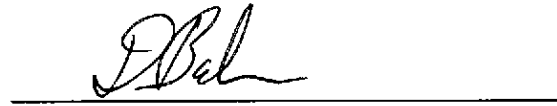
SUBMITTED:

Prepared by:



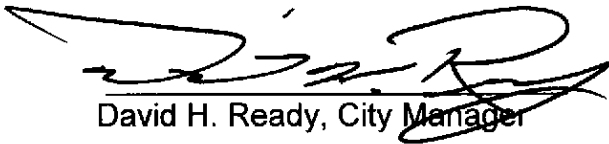
Savat Khamphou
Assistant Director of Public Works/
Assistant City Engineer

Recommended by:



David J. Barakian
Director of Public Works/City Engineer

Approved by:



David H. Ready, City Manager

Attachments:

1. NPDES Program Cost Sharing Table
2. Municipal Stormwater Implementation and Cost-Sharing Agreement
3. NPDES MS4 Permit

FISCAL YEAR COSTS - Whitewater						
	Actuals 12-13	Budget 13-14	Projection 13-14	Actuals 13-14	Requested 14-15	
STAFFING						
District specific staff benefits						
Staffing, Benefits, Temp and Admin Correction	\$ (190,049.86)	\$ 280,000.00	\$ 140,000.00	\$ 50.00	\$ 140,000.00	
Staff Salaries (Invoicable)	\$ 24,414.22	\$ 41,600.00	\$ 60,000.00	\$ 87,433.23	\$ 181,600.00	
Staff Benefits	\$ 75,426.51	\$ 126,400.00	\$ 90,000.00	\$ 24,701.09	\$ 126,400.00	
Staff Standby/Differential/Overtime Pay	\$ 2,234.72	\$ 2,750.00	\$ 2,000.00	\$ 166.28	\$ 2,750.00	
Subtotal	\$ 62,027.99	\$ 147,750.00	\$ 107,000.00	\$ 82,290.60	\$ 265,750.00	
ADMINISTRATION & OVERHEAD						
Regional Admin Support & Data Processing	\$ 35,626.48	\$ 37,843.43	\$ 52,002.74	\$ 40,515.00	\$ 68,971.71	
District Admin Support & Data Processing	\$ 52,352.12	\$ 62,056.57	\$ 47,897.26	\$ -	\$ 31,028.29	
County Counsel Services	\$ 200.41	\$ 3,000.00	\$ 900.00	\$ 62.00	\$ 3,000.00	
Rent/Lease Equipment	\$ 263.82	\$ 300.00	\$ 300.00	\$ -	\$ 300.00	
Car Pool/Private Mileage	\$ 5,702.12	\$ 7,020.00	\$ 7,000.00	\$ 1,016.97	\$ 7,020.00	
Photocopying	\$ 721.61	\$ 3,000.00	\$ 1,500.00	\$ 172.65	\$ 3,000.00	
Miscellaneous (Utilities, Photo, Comm. Supplies, materials, etc.)	\$ 3,144.32	\$ 5,160.00	\$ 4,630.00	\$ 545.49	\$ 5,160.00	
Subtotal	\$ 98,010.88	\$ 118,380.00	\$ 113,830.00	\$ 42,312.20	\$ 118,380.00	
CONSULTANT SERVICES						
Burburn & Gest legal support-132830	\$ 20,005.30	\$ 30,020.00	\$ 30,000.00	\$ 12,617.78	\$ 10,000.00	
SWMP Update/RDWD	\$ -	\$ 199,850.00	\$ 60,000.00	\$ -	\$ -	
CNRD/CRRP - CTM-151170	\$ -	\$ -	\$ -	\$ -	\$ -	
Sutton IED Study-155249	\$ -	\$ -	\$ -	\$ -	\$ -	
HDR-SMR NNI-153275	\$ -	\$ -	\$ -	\$ -	\$ -	
SA/SM Mapping/WAP/Codebook finalization&Training	\$ 239.99	\$ -	\$ -	\$ -	\$ -	
URS - General/perm support -154486	\$ 56,943.00	\$ 29,900.00	\$ 29,900.00	\$ 21,757.74	\$ 40,000.00	
Grants and other Misc. Applications	\$ -	\$ -	\$ -	\$ -	\$ 20,000.00	
LWA - APAP Support -153119	\$ -	\$ -	\$ 12,000.00	\$ 2,756.44	\$ -	
AA Webb - BA Services -133862	\$ 3,250.00	\$ 3,250.00	\$ 3,250.00	\$ 1,625.00	\$ 3,250.00	
Subtotal	\$ 80,438.29	\$ 263,020.00	\$ 135,150.00	\$ 38,756.96	\$ 73,250.00	
PUBLIC EDUCATION PROGRAM						
Public Ed Staff, Benefits	\$ 30,772.85	\$ 35,000.00	\$ 35,000.00	\$ -	\$ 35,000.00	
Retire/R Study	\$ -	\$ -	\$ -	\$ -	\$ -	
AIB/CASC NPDES Training-155335	\$ 12,340.34	\$ 30,000.00	\$ 12,000.00	\$ 3,570.70	\$ 30,000.00	
SCA - Pub outreach -13018	\$ 25,054.43	\$ 34,000.00	\$ 34,000.00	\$ 18,548.83	\$ 34,000.00	
B&C - Santa Ana Training -153210	\$ -	\$ -	\$ -	\$ -	\$ -	
Ed Prog - Temp Help, Printing/Bind, Spec. Prog. Expense, Op Mark	\$ 7,651.66	\$ 22,700.00	\$ 19,300.00	\$ 2,030.77	\$ 22,700.00	
Subtotal	\$ 75,719.29	\$ 121,700.00	\$ 100,300.00	\$ 24,150.30	\$ 121,700.00	
WATER QUALITY MONITORING PROGRAM						
Monitoring Staff, Benefits	\$ 150,277.00	\$ 68,000.00	\$ 150,000.00	\$ -	\$ 150,000.00	
CVWD Monitoring	\$ 5,987.31	\$ 10,000.00	\$ 10,000.00	\$ -	\$ 10,000.00	
IS Batsch - NPDES Monitoring-154487	\$ 928.60	\$ 15,050.00	\$ 10,000.00	\$ 150.00	\$ 10,000.00	
Weston - Binas -134232	\$ -	\$ -	\$ -	\$ -	\$ -	
Weston Consultants-145670	\$ 54,830.40	\$ 50,100.00	\$ 35,000.00	\$ 1,878.00	\$ 40,000.00	
Outfall, K/ID & Misc Monitoring	\$ -	\$ -	\$ -	\$ -	\$ -	
Rental Cars	\$ -	\$ -	\$ -	\$ -	\$ -	
SCCWRP Regional Bio -146754	\$ -	\$ -	\$ -	\$ -	\$ -	
Print, Gear, Rental Vehicles and Small Tools & Equipment	\$ -	\$ 600.00	\$ 250.00	\$ -	\$ 600.00	
Subtotal	\$ 221,023.31	\$ 143,750.00	\$ 205,250.00	\$ 2,028.00	\$ 210,600.00	
POLLUTION PREVENTION PROGRAMS						
Waste HHW -155407	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ -	\$ 30,000.00	
Environmental Health (CA/P)-125404	\$ 37,135.50	\$ 50,050.00	\$ 50,000.00	\$ 8,013.50	\$ 50,000.00	
TMDL Cooperative Projects	\$ -	\$ -	\$ -	\$ -	\$ -	
Southern California Water Committee	\$ -	\$ -	\$ -	\$ -	\$ -	
Flu Dept. (HAZMAT)	\$ -	\$ 36,900.00	\$ -	\$ -	\$ -	
Contributions to other programs	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal	\$ 67,135.50	\$ 116,950.00	\$ 80,000.00	\$ 8,013.50	\$ 80,000.00	
Class 5 Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	
PROGRAM SUBTOTAL	\$ 604,254.86	\$ 1,111,150.00	\$ 741,530.00	\$ 197,555.56	\$ 869,680.00	

Agency	2013 Population	2014 Population	Growth	2012-2013 Unaudited Base	2012-2013 Actual Costs	Carryover to 2013-2014	2013-2014 Unaudited	2013-2014 Invoice	2013-2014 Corrected	2014-2015 Estimated
Banning	29,844	29,903	0.4%	\$3,917.68	\$ 20,861.90	\$ 11,055.69	\$ 40,131.87	\$ 29,076.18	\$ 29,076.18	\$ 35,990.78
<i>Cathedral City (BA, 12%)**</i>	6,229	6,234	0.1%	\$6,661.82	\$ 4,354.29	\$ 2,307.53	\$ 8,349.14	\$ 6,041.61	\$ 6,041.61	\$ 8,880.23
<i>County (BA, est.25%)**</i>	23,907	23,907	0.0%	\$25,568.15	\$ 16,711.82	\$ 8,856.33	\$ 32,018.44	\$ 23,162.11	\$ 23,162.11	\$ 28,580.30
<i>Desert Hot Springs</i>	27,383	27,638	0.9%	\$29,285.68	\$ 19,141.66	\$ 10,144.02	\$ 37,015.34	\$ 26,871.32	\$ 26,871.32	\$ 33,169.26
<i>Palm Springs</i>	45,002	45,279	0.6%	\$48,128.91	\$ 31,457.95	\$ 16,670.96	\$ 60,641.78	\$ 43,970.82	\$ 43,970.82	\$ 54,485.89
BA INVOICED SUBTOTAL	132,265	133,823	0.5%	\$ 141,562.24	\$ 92,527.71	\$ 49,034.53	\$ 178,156.58	\$ 129,122.04	\$ 129,122.04	\$ 162,665.48
Cathedral City (non-BA, 88%)*	45,374	45,718	0.8%	\$48,526.76	\$ 31,717.90	\$ 16,808.77	\$ 61,229.73	\$ 44,420.96	\$ 44,420.96	\$ 55,302.18
Coachella	41,502	41,904	1.0%	\$44,385.72	\$ 29,011.33	\$ 15,374.39	\$ 56,121.67	\$ 40,747.28	\$ 40,747.28	\$ 50,771.11
County (non-BA, est. 75%)**	72,651	72,651	0.0%	\$77,699.07	\$ 50,785.56	\$ 26,913.51	\$ 97,300.87	\$ 70,387.36	\$ 70,387.36	\$ 88,024.33
Indian Wells	5,010	5,035	0.5%	\$5,358.11	\$ 3,502.16	\$ 1,855.95	\$ 6,743.33	\$ 4,887.39	\$ 4,887.39	\$ 6,100.43
Indio	77,165	78,065	1.2%	\$82,526.72	\$ 53,941.00	\$ 28,585.72	\$ 104,551.79	\$ 75,966.07	\$ 75,966.07	\$ 94,583.98
La Quinta	37,836	38,073	0.6%	\$40,464.99	\$ 26,448.67	\$ 14,016.32	\$ 50,993.52	\$ 36,977.21	\$ 36,977.21	\$ 46,131.88
Palm Desert	49,111	49,471	0.7%	\$52,523.42	\$ 34,330.28	\$ 18,193.14	\$ 64,256.09	\$ 48,062.96	\$ 48,062.96	\$ 59,059.33
Rancho Mirage	17,463	17,804	0.2%	\$18,676.40	\$ 12,207.24	\$ 6,469.16	\$ 23,442.96	\$ 16,973.80	\$ 16,973.80	\$ 21,207.94
NON-BA INVOICED SUBTOTAL	346,112	348,423	0.7%	\$ 370,161.19	\$ 241,944.24	\$ 128,216.95	\$ 466,639.07	\$ 338,423.62	\$ 338,423.62	\$ 422,151.20
CVWD (7% Cost Share)**				\$41,651.91	\$ 27,224.46	\$ 14,427.45	\$ 52,483.44	\$ 38,055.99	\$ 38,055.99	\$ 47,552.52
RCC (7% Cost Share)				\$41,651.91	\$ 27,224.46	\$ 14,427.45	\$ 52,483.44	\$ 38,055.99	\$ 38,055.99	\$ 47,552.52
BA Area (BA Funds)				\$139,012.38	\$ 215,433.99	\$ 123,578.39	\$ 361,386.57	\$ 237,808.19	\$ 237,808.19	\$ 300,358.29
RCC (BA Funds)										
WHITWATER TOTAL	478,477	481,446	0.6%	\$ 934,839.63	\$ 604,254.86	\$ 329,684.77	\$ 1,111,150.00	\$ 781,465.23	\$ 505,601.05	\$ 869,680.00

* Percentage distribution determined by GIS methods by Bill R. 2011.
 ** Credit in FY12-13 for CVWD Monitoring services not shown
 2013 Population Estimates from E-1, Jan 1, 2011

Cathedral City Tr	\$ 69,578.87	\$ 50,462.57	\$ 65,261.43
County Total	\$ 129,319.31	\$ 93,549.47	\$ 116,604.64
CVWD Total (less prior year monitoring credit)	\$ 32,068.88	\$ 37,552.52	\$ 37,552.52
Permittee Total	\$ 499,613.74	\$ 621,769.19	\$ 621,769.19

1 MUNICIPAL STORMWATER IMPLEMENTATION AND COST-SHARING AGREEMENT
2 (California Regional Water Quality Control Board –
3 Colorado River Basin Region)

4 This Municipal Stormwater Implementation and Cost-Sharing Agreement
5 ("Agreement"), dated June 20, 2014, by and between the RIVERSIDE COUNTY FLOOD
6 CONTROL AND WATER CONSERVATION DISTRICT ("DISTRICT"), the COUNTY OF
7 RIVERSIDE ("COUNTY"), the COACHELLA VALLEY WATER DISTRICT ("CVWD"), and the
8 CITIES of BANNING, CATHEDRAL CITY, COACHELLA, DESERT HOT SPRINGS, INDIAN
9 WELLS, INDIO, LA QUINTA, PALM DESERT, PALM SPRINGS and RANCHO MIRAGE
10 ("CITIES") (all, individually, "PARTY" and collectively, "PARTIES") to establish the
11 responsibilities of each PARTY concerning certain compliance and financial responsibilities in
12 connection with requirements relating to stormwater as established under the federal Clean Water
13 Act, 33 U.S.C. § 1342(p) ("CWA") and California law, including the National Pollutant Discharge
14 Elimination System ("NPDES") Municipal Separate Storm Sewer System ("MS4") Permit issued by
15 the California Regional Water Quality Control Board - Colorado River Basin Region ("CRWQCB-
16 CRB") pursuant to Order No. R7-2013-0011 (the "2013 PERMIT"), is entered into by and between
17 the PARTIES with respect to the following:

18 RECITALS

19 A. WHEREAS, Congress in 1987 added Section 402(p) to the Federal Clean Water
20 Act, which requires certain MS4 operators to obtain NPDES Permits before discharging stormwater
21 into navigable waters; and

22 B. WHEREAS, the United States Environmental Protection Agency ("EPA")
23 promulgated regulations for MS4 Permits in November 1990; and

24 C. WHEREAS, pursuant to the CWA, EPA has authorized California, through the
25 California State Water Resources Control Board ("SWRCB") and the nine Regional Water Quality
26 Control Boards to administer the NPDES Permit program within the State; and

1 D. WHEREAS, the Regional Water Quality Control Boards are authorized to
2 administer NPDES Permit programs within the boundaries of their respective regions; and

3 E. WHEREAS, on November 21, 2012, DISTRICT, COUNTY, CVWD and
4 CITIES reapplied for an area-wide NPDES MS4 Permit in accordance with the previous NPDES
5 MS4 Permit (Order No. R7-2008-0001, NPDES No. CAS617002) which expired on May 21, 2013
6 ("2008 Permit"); and

7 F. WHEREAS, the CRWQCB-CRB issued the 2013 PERMIT to DISTRICT,
8 COUNTY, CVWD and CITIES on June 20, 2013 as Order No. R7-2013-0011; and

9 G. WHEREAS, the 2013 PERMIT designates DISTRICT and COUNTY as
10 Principal Permittees and DISTRICT, COUNTY, CVWD and CITIES as Permittees; and

11 H. WHEREAS, pursuant to Section E of the 2013 PERMIT, the PARTIES will
12 continue to implement the 2008 Permit and the existing 2011 Storm Water Management Plan until a
13 revised Storm Water Management Plan ("SWMP") is approved by the CRWQCB-CRB. Such
14 SWMP is to be submitted to the CRWQCB-CRB on or before June 20, 2014; and

15 I. WHEREAS, the 2013 PERMIT requires the DISTRICT, COUNTY, CVWD
16 and CITIES to perform and/or execute certain activities and responsibilities; and

17 J. WHEREAS, DISTRICT and CVWD have agreed to perform and/or undertake
18 certain activities in order to facilitate implementation of the 2013 PERMIT requirements as well as
19 other requirements related to municipal stormwater; and

20 K. WHEREAS, the PARTIES agree that cooperation between, and sharing of costs
21 among, the DISTRICT, COUNTY, CVWD and CITIES in the administration and implementation
22 of the 2013 PERMIT and required programs and actions under the 2013 PERMIT, as well as other
23 municipal stormwater programs, are in the best interest of all PARTIES; and

24 L. WHEREAS, the PARTIES have entered into previous agreements to share costs
25 and responsibilities of compliance with prior NPDES MS4 Permits and municipal stormwater
26 programs, and wish to enter into a similar agreement with respect to the 2013 PERMIT and other
27 municipal stormwater programs.

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1 NOW, THEREFORE, the PARTIES do mutually agree as follows:

2 1. Incorporation of 2013 PERMIT. The 2013 PERMIT is attached to this
3 Agreement as Exhibit A and is hereby incorporated by reference in its entirety and made a part of
4 this Agreement.

5 2. Incorporation of Federal and State Laws. All applicable Federal and State laws
6 and regulations in effect at the Effective Date (as defined in Section 22 of this Agreement), and as
7 may hereafter be amended during the term of this Agreement, shall govern this Agreement. In any
8 conflict between the terms of this Agreement and the provisions of such laws and regulations, the
9 latter shall control.

10 3. Responsibility for 2013 PERMIT Requirements. Each PARTY shall be solely
11 responsible for compliance with the requirements of the 2013 PERMIT within the limits of its
12 jurisdiction or as otherwise required by the 2013 PERMIT of that PARTY. All PARTIES shall
13 timely comply with such requirements of the 2013 PERMIT.

14 4. Allocation of Costs for 2013 PERMIT and other Municipal Stormwater
15 Requirements. The PARTIES agree that the costs of the responsibilities identified below shall
16 constitute "SHARED COSTS" (as defined in Section 5, below) to be divided and allocated among
17 the PARTIES as set forth in Section 5:

18 A. Public Education and HAZMAT Team. The DISTRICT shall, at its
19 discretion and in coordination with the other PARTIES, perform and/or
20 coordinate activities associated with 2013 PERMIT Part F.1.a.xvi relating
21 to HAZMAT Team responses and Part F.1.f with regard to regional public
22 education issues and the County HHW Program.

23 B. Monitoring. DISTRICT and CVWD shall perform and/or coordinate Dry
24 and Wet Weather Receiving Water and Dry and Wet Weather MS4 Outfall
25 monitoring as required by 2013 PERMIT Parts L.7 through L.10, except
26 that any monitoring performed pursuant to a follow-up Illicit
27 Connection/Illegal Discharge ("IC/ID") investigation, as described in 2013

1 PERMIT Parts F.1.a.ix and L.10.A, shall be conducted only by those
2 PARTIES located within the tributary area where an IC/ID incident has
3 occurred and follow-up investigation is required. DISTRICT and CVWD
4 may, at their mutual agreement, implement alternative approaches for
5 sample collection, including use of CONSULTANTS (as defined below),
6 reassigning monitoring sites between DISTRICT and CVWD, or other
7 alternative approaches intended to facilitate 2013 PERMIT compliance.
8 The DISTRICT's and CVWD's responsibilities hereunder shall include, but
9 not be limited to, the selection of 2013 PERMIT sampling sites (subject to
10 approval by the CRWQCB-CRB), the collection of samples in accordance
11 with 2013 PERMIT Parts L.7 through L.10.D, and the submission of
12 samples to approved laboratories. DISTRICT shall be responsible for the
13 conduct of special studies, as required in 2013 PERMIT page 86. CVWD
14 shall be reimbursed for its SHARED COSTS associated with sample
15 collection and laboratory analysis through the application of an equivalent
16 credit towards CVWD's fiscal year Cost-Share amount, as described in
17 Section 5.

18 (1) Notwithstanding any other provision in this Agreement, the CITY
19 of COACHELLA shall be solely responsible for all duties and costs
20 associated with the performance of Coachella Valley Stormwater
21 Channel Bacteria Indicators TMDL ("CVSC TMDL") Phase I
22 Monitoring (2013 PERMIT Part G, pages 58-59, and Part L, pages
23 85-86), including all monitoring, analysis and reporting performed
24 pursuant to its Quality Assurance Project Plan and Monitoring Plan
25 and shall be responsible, along with any other Party to this Agreement
26 which may hereafter be named as a responsible party under the CVSC
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1 TMDL, to otherwise comply with monitoring requirements under the
2 CVSC TMDL.

3 C. Principal Permittee and Reporting. DISTRICT shall perform and/or
4 coordinate all responsibilities assigned to the Principal Permittees in 2013
5 PERMIT Part E.2. DISTRICT shall coordinate the preparation of, and
6 submit to the CRWQCB-CRB, the Annual Report required in 2013
7 PERMIT Parts E.2 and N, the Annual Monitoring Report required in 2013
8 PERMIT Parts L.11 and N and the Report of Waste Discharge required in
9 2013 PERMIT Part I.1. Upon DISTRICT's request, COUNTY, CVWD
10 and CITIES shall, at no cost to DISTRICT, timely provide to DISTRICT
11 (on DISTRICT-approved forms) all information needed to meet the above-
12 referenced reporting requirements. Additionally, when requested by a
13 PARTY, the DISTRICT shall provide information on 2013 PERMIT
14 programs implemented or coordinated by the District to assist that PARTY
15 in its preparation of reports required under 2013 PERMIT PART I, in
16 making a report to the CRWQCB-CRB, or in responding to requests for
17 audits or other information by the CRWQCB-CRB or EPA.

18 D. Other Municipal Stormwater Programs. In addition to programs required
19 under the 2013 PERMIT and set forth in Sections 4.A-4.C, the DISTRICT
20 shall perform and/or coordinate other programs related to municipal
21 stormwater issues (including, but not limited to, the Compliance
22 Assistance Program, development of a new NPDES MS4 permit,
23 development of potential TMDL programs, development of a CWA 303(d)
24 list of impaired waterbodies, work related to non-PARTY dischargers,
25 preparation and filing of claims for unfunded state mandates, as well as any
26 other such programs as the PARTIES shall agree).

1 E. Consultant's Services and Cooperative Agreements. In the event
2 DISTRICT retains a consultant or other professional ("CONSULTANT")
3 to develop and/or implement the programs set forth in Sections 4.A-4.D of
4 this Agreement, including scientific, engineering or legal services, the
5 SHARED COSTS associated with such services shall be shared by
6 DISTRICT, COUNTY, CVWD and CITIES in accordance with the cost
7 sharing provisions set forth in Section 5. The DISTRICT shall notify the
8 PARTIES in advance of its intent to retain a CONSULTANT and, upon
9 any PARTY's request, provide information regarding requests for
10 proposals from consultants, consultant's fee, contract timetable and
11 payment schedule to the PARTIES. COUNTY, CVWD and CITIES shall
12 have the opportunity to participate in decisions related to CONSULTANT's
13 services and the costs associated therewith.

14 5. Cost Sharing. SHARED COSTS (as defined below) for services to be
15 performed in accordance with Sections 4.A-4.E of this Agreement shall be allocated among the
16 PARTIES in accordance with the following formula:

$$17 \quad IC = \frac{((SHARED COSTS + Credits - Debits) - DISTRICT - CVWD) \times IP}{18 \quad TP}$$

19 Where,

20 "IC" means Individual Cost for COUNTY or CITIES

21 "DISTRICT" means DISTRICT Cost-Share Amount (set at
22 7%)

23 "CVWD" means CVWD Cost-Share Amount (set at 7%,
24 adjusted to reflect performance of duties described by Section
25 4.B)

26 "IP" means COUNTY and CITIES' Individual Populations, as
27 further defined below
28

1 "TP" means the COUNTY and CITY PARTIES' total
2 population

3 SHARED COSTS = Fiscal year costs for services performed
4 in accordance with Sections 4.A-4.E of this Agreement.
5 SHARED COSTS shall include all costs required to perform
6 the activities set forth in Sections 4.A-4.E, except that in no
7 event shall SHARED COSTS include any costs arising from
8 or associated with any act or failure to act by any PARTY or
9 its employees or agents during the performance of activities
10 required under this Agreement which result in death, personal
11 injury or property damage.

12 Credits = Portion of SHARED COSTS for the previous fiscal
13 year that were not expended, and if applicable, funds received
14 from other sources, including new PARTIES, not previously
15 calculated in estimating SHARED COSTS for the current
16 fiscal year.

17 Debits = Portion of actual SHARED COSTS for the previous
18 fiscal year which exceeded estimated SHARED COSTS for
19 the previous fiscal year.

20 Each CITY's Individual Population shall be based on the most recent population
21 figures released by the California State Department of Finance. The COUNTY's Individual
22 Population shall be based on census block information adjusted to reflect the most recent
23 Department of Finance population growth data.

24 COUNTY, CVWD and CITIES shall pay to DISTRICT their share of SHARED
25 COSTS within 60 calendar days of receipt of an invoice from DISTRICT.

26 6. Other Cost-Sharing Agreements. Nothing in this Agreement shall prevent a
27 subset of fewer than all the PARTIES from agreeing with the DISTRICT to share the costs of other
28

1 municipal stormwater programs concerning such PARTIES. Such PARTIES shall agree among
2 themselves as to the cost-sharing formula for such programs.

3 7. Term of the Agreement. This Agreement becomes effective on June 20, 2014
4 and shall remain in effect until eighteen (18) months after the date that CRWQCB-CRB issues a
5 new NPDES Permit in replacement of the 2013 PERMIT. The obligation to pay SHARED COSTS
6 set forth in Section 5 shall survive the termination of this Agreement as to any PARTY which is
7 delinquent in making such payments.

8 8. Additional Parties. Any city which incorporates after the Effective Date of this
9 Agreement and which is subject to the 2013 PERMIT may seek to be added as a PARTY by
10 sending a written request to DISTRICT. If a majority of the PARTIES (each having one co-equal
11 vote) approves the addition of the city, this Agreement shall be amended to reflect the addition of
12 the city and the newly added city shall thereafter comply with all provisions of this Agreement.
13 Upon its execution of the amended Agreement, the newly added city shall be responsible for
14 SHARED COSTS in accordance with Section 5 of this Agreement for the then-current fiscal year
15 and any subsequent fiscal year. Funds paid by the newly added city during its first fiscal year under
16 this Agreement shall be credited to the PARTIES according to the formula set forth in Section 5.

17 9. Withdrawal from the Agreement. Any PARTY may withdraw from this
18 Agreement sixty (60) calendar days after giving written notice to the other PARTIES and to the
19 CRWQCB-CRB; upon said official withdrawal date, SHARED COSTS for the withdrawing
20 PARTY will cease to accrue. Withdrawal from this Agreement will not excuse non-compliance
21 with requirements of the 2013 PERMIT applicable to the withdrawing PARTY. The withdrawing
22 PARTY shall pay, within thirty (30) calendar days of receipt of a final invoice from DISTRICT, all
23 SHARED COSTS such PARTY was obligated under this Agreement to pay for the then-current
24 fiscal year, as well as any funds owed for obligations incurred in previous fiscal years. No
25 withdrawing PARTY shall be entitled to receive any refund of SHARED COSTS paid under this
26 Agreement, or to benefit from the ongoing performance of this Agreement, except to the extent
27
28

1 SHARED COSTS were overpaid as the result of errors in DISTRICT invoicing or inadvertent over-
2 payment by the withdrawing PARTY.

3 10. Removal of PARTY. As stated, COUNTY, CVWD and CITIES shall pay to
4 DISTRICT their share of SHARED COSTS within 60 calendar days of receipt of an invoice from
5 DISTRICT. Any PARTY which is more than ninety (90) calendar days delinquent in the payment
6 of any SHARED COSTS under this Agreement, or which is in material breach of any other
7 requirement applicable to that PARTY under this Agreement, shall be subject to removal as a
8 PARTY. The delinquent PARTY shall be notified in writing by the DISTRICT of its delinquent
9 status and shall be afforded an opportunity, not exceeding thirty (30) calendar days from the date of
10 the notice, to cure such status. In the event such PARTY fails or refuses to cure its delinquency, the
11 remaining PARTIES shall vote to remove the delinquent PARTY. If a majority of the PARTIES
12 (each PARTY having one co-equal vote) votes to remove the delinquent PARTY, it shall be
13 removed as a PARTY immediately upon the conclusion of such vote. The removed PARTY shall
14 pay, within thirty (30) calendar days of receipt of a final invoice from DISTRICT, all SHARED
15 COSTS such PARTY was obligated under this Agreement to pay for the then-current fiscal year, as
16 well as any funds owed for obligations incurred in previous fiscal years. Any unfilled obligations of
17 the removed PARTY under this Agreement shall survive its removal. No removed PARTY shall be
18 entitled to receive any refund of SHARED COSTS already paid under this Agreement, or any
19 benefit from the ongoing performance of this Agreement.

20 11. Non-compliance with 2013 PERMIT Requirements. Any PARTY determined,
21 in either an administrative or judicial forum, to be in non-compliance with its specific
22 responsibilities pursuant to the 2013 PERMIT shall be solely responsible for any penalties, fees,
23 damages or injunctive relief assessed in connection therewith. This Agreement is not intended to
24 and does not create any joint and several liability of the other PARTIES for such penalties, fees,
25 damages or injunctive relief.

26 12. Amendments to the Agreement. Except to add a PARTY as provided in Section
27 7, this Agreement may be amended only by consent of all PARTIES. No amendment to this
28

1 Agreement shall be effective unless it is in writing and duly signed by the authorized representatives
2 of all PARTIES.

3 13. Authorized Signatories. The PARTIES warrant and represent that the
4 individuals signing this Agreement on their behalf can and do bind the PARTIES to the terms of
5 this Agreement.

6 14. Notices. All notices shall be deemed duly given when delivered by hand, by
7 email with receipt requested, or three (3) days after deposit in the U.S. Mail, postage prepaid.
8 Notices shall be sent to representatives of the PARTIES whose names and addresses appear on
9 Exhibit B of this Agreement. The identity of such representatives may be freely changed by any
10 PARTY upon notice to the other PARTIES, and changes to Exhibit B shall not be considered an
11 amendment of this Agreement.

12 15. Governing Law and Venue. This Agreement shall be governed and construed in
13 accordance with the laws of the State of California. In any action brought to enforce this
14 Agreement, venue shall be in the Riverside County Superior Court; provided, however, that this
15 venue provision shall not affect the ability of any PARTY to seek a change of venue pursuant to
16 Code of Civil Procedure Section 394.

17 16. Severability. If any provision or provisions of this Agreement shall be held to
18 be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining
19 provisions shall not in any way be affected or impaired hereby.

20 17. Consent to Waiver and Breach. No term or provision hereof shall be deemed
21 waived and no breach excused, unless the waiver or breach is consented to in writing, and signed by
22 the PARTY or PARTIES affected. Consent by any PARTY to a waiver or breach by any other
23 PARTY shall not constitute consent to any different or subsequent waiver or breach.

24 18. Applicability of Prior Agreements. This Agreement and the exhibits attached
25 hereto constitute the entire Agreement between the PARTIES with respect to the subject matter
26 thereof; all prior agreements, representations, custom, usage, statements, negotiations and
27 undertakings concerning implementation of the 2013 PERMIT, oral or written, are superseded
28

1 hereby, except to the extent that any PARTY shall still have an outstanding obligation under any
2 such prior agreements.

3 19. Resolving Disputes. If a dispute arises under this Agreement, the disputing
4 PARTIES agree to attempt to resolve the dispute internally. Absent resolution, a mutually agreed-
5 upon mediator in Riverside County will be obtained. Any cost and fees, apart from Attorney Fees,
6 shall be shared equally among the disputing PARTIES. If such dispute is not resolved within 60
7 days after referral to the mediator, either PARTY may file the matter with the court.

8 20. Execution in Counterparts. This Agreement may be executed and delivered in
9 any number of copies (counterparts) by the PARTIES. When each PARTY has signed and
10 delivered at least one counterpart to the other PARTIES, each counterpart shall be deemed an
11 original and, taken together, shall constitute one and the same Agreement, which shall be binding
12 and effective as to the PARTIES hereto.

13 21. Partnership. This Agreement does not create a partnership between the
14 PARTIES or other similar relationship nor does it impose any fiduciary obligations upon any of the
15 PARTIES, and does not bind any of the PARTIES beyond the furtherance of the intent of the
16 fulfillment of the Agreement.

17 22. Effective Date. This Agreement shall take effect on June 20, 2014 and shall
18 become binding on the PARTIES upon the date that a duly authorized representative of that
19 PARTY executes it. The PARTIES shall make all reasonable efforts to execute the Agreement
20 prior to June 20, 2014.

1 IN WITNESS WHEREOF, each PARTY has executed this Agreement as of the date set
2 forth below.

3
4 RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

5 By: _____
6 WARREN D. WILLIAMS
7 General Manager-Chief Engineer

By: _____
MARION ASHLEY, Chairman
Riverside County Flood Control and
Water Conservation District

8 Dated: _____

9 APPROVED AS TO FORM:

ATTEST:

10 PAMELA J. WALLS
11 County Counsel

KECIA HARPER-IHEM
Clerk to the Board

12 By: _____
13 Aaron C. Gettis, Deputy County Counsel

By: _____
Deputy

14 (SEAL)

15
16 RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

17 By: _____
18 JAY ORR
19 County Executive Officer

By: _____
JEFF STONE, Chairman
Board of Supervisors, County of Riverside
Third District

20
21 Dated: _____

22 ATTEST:

23 KECIA HARPER-IHEM
24 Clerk to the Board

25 By: _____
26 Deputy
27 (SEAL)

1 APPROVED AS TO FORM:

COACHELLA VALLEY WATER DISTRICT

2 By: _____

3 By: _____

J.M. BARRETT
General Manager

4
5
6 By: _____

JOHN POWELL
President

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9 Dated: _____

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APPROVED AS TO FORM:

CITY OF BANNING

By: _____
DAVID J. ALESHIRE
City Attorney

By: _____
DEBORAH FRANKLIN
Mayor

ATTEST:

By: _____
MARIE A. CALDERON
City Clerk

Dated: _____

1 APPROVED AS TO FORM:

CITY OF CATHEDRAL CITY

2 By: _____
3 City Attorney

By: _____
Mayor

4
5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF COACHELLA

2 By: _____
3 CARLOS CAMPOS
4 City Attorney

By: _____
DAVID GARCIA
City Manager

5 ATTEST:

6
7 By: _____
8 BEATRICE BARAJAS
9 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF DESERT HOT SPRINGS

2 By: _____
3 City Attorney

By: _____
Mayor

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5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF INDIAN WELLS

2 By: _____
3 City Attorney

By: _____
Mayor

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5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF INDIO

2 By: _____
3 City Attorney

By: _____
Mayor

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5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF LA QUINTA

2 By: _____
3 City Attorney

By: _____
Mayor

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5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF PALM DESERT

2 By: _____
3 City Attorney

By: _____
Mayor

4
5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF PALM SPRINGS

2 By: _____
3 City Attorney

By: _____
City Manager

4
5 ATTEST:

6 By: _____
7 City Clerk

Dated: _____

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1 APPROVED AS TO FORM:

CITY OF RANCHO MIRAGE

2 By: _____
3 STEVE B. QUINTANILLA
4 City Attorney

By: _____
RICHARD W. KITE
Mayor

5 ATTEST:

6
7 By: _____
8 CYNTHIA SCOTT
9 City Clerk

Dated: _____

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EXHIBIT B

Notice Addressees

RCFCWCD

Mr. Jason Uhley
1995 Market St, Riverside, CA. 92501
951.955.1273, FAX 951.788.9965
juhley@rcflood.org

Coachella Valley Water District

Mr. Steve Bigley
PO Box 1058, Coachella, CA. 92336
760.398.2651 ext.2286, FAX 760.391.9637
sbigley@cvwd.org

City of Cathedral City

Mr. Bill Simons
68700 Avenida Lalo Guerrero,
Cathedral City, CA 92234
760.770.0360
bsimons@cathedralcity.gov

Riverside County

Mr. Steve Horn
Riverside County Executive Office
4080 Lemon St, Suite 400,
Riverside, CA. 92501
951.955.1100
schorn@rceo.org

City of Banning

Mr. Arturo Vela
99 East Ramsey St, PO Box 998
Banning, CA. 92220
951.922.3130, FAX 951.922.3141
avela@ci.banning.ca.us

City of Coachella

Ms. Berlinda Blackburn
1515 Sixth St, Coachella, CA. 92236
760.501.8114, FAX 760.398.1630
bblackburn@coachella.org

Colorado River Basin Regional Water Quality Control Board

June 27, 2013

Riverside County Flood Control and Water Conservation District – General Manager
County of Riverside – Executive Office, Steve Horn
City of Banning – Director of Public Works
City of Cathedral City – Director of Public Works
City of Coachella – Director of Public Works
City of Desert Hot Springs – Director of Public Works
City of Indian Wells – Director of Public Works
City of Indio – Director of Public Works
City of La Quinta – Director of Public Works
City of Palm Desert – Director of Public Works
City of Palm Springs – Director of Public Works
City of Rancho Mirage – Director of Public Works
Coachella Valley Water District – General Manager

RECEIVED
JUL 01 2013

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

SUBJECT: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE WHITEWATER RIVER WATERSHED (RENEWAL)

Enclosed is a copy of Board Order No. R7-2013-0011. This Board Order was adopted by the Regional Water Board on June 20, 2013, at its meeting in the Town of Yucca Valley, California. This Board Order supersedes Board Order No. R7-2008-0001, previously issued to for this Permit.

Additional full text copies of the WDRs are available on the Regional Water Board's web site at: <http://www.waterboards.ca.gov/coloradoriver>. Under the heading of "Board Orders", select "Year 2013" then Order R7-2013-0011. If you need a hard copy of this order mailed to you, please contact Hilda Vasquez by phone at (760) 346-7491 or via e-mail at hvasquez@waterboards.ca.gov.

If you have any questions concerning this matter, please contact Anders Wistrom at (760) 776-8964.



ROBERT PERDUE
Executive Officer

AW/sw

Enclosure: Board Order R7-2013-0011

File WDID No. 7A 33 2001 M04-13, Coachella Valley MS4, Board Order R7-2013-0011

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

73-720 Fred Waring Drive, Suite 100, Palm Desert, CA 92260
Phone: (760) 346-7491 • Fax (760) 341-6820
<http://www.waterboards.ca.gov/coloradoriver>

ORDER NO. R7-2013-0011
NPDES NO. CAS617002

WASTE DISCHARGE REQUIREMENT
FOR
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)
WITHIN THE WHITEWATER RIVER WATERSHED
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
OWNER/OPERATOR
COUNTY OF RIVERSIDE, OWNER/OPERATOR
COACHELLA VALLEY WATER DISTRICT, OWNER/OPERATOR
AND INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE
WHITEWATER RIVER BASIN, OWNERS/OPERATORS

Table 1. Administrative Information

This Order was adopted by the Regional Water Quality Control Board on:	June 20, 2013
This Order shall become effective on:	June 20, 2013
This Order shall expire on:	June 19, 2018
The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, not later than 180 days in advance of the Order expiration date as application for issuance of new <i>Waste Discharge Requirements</i> . The date for submitting a complete application for reissuance is December 23, 2017 .	

I, Robert Perdue, *Executive Officer*, do hereby certify that this Order, with all attachments, is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on June 20, 2013.



ROBERT PERDUE, Executive Officer

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**WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (*MS4*)
WITHIN THE WHITEWATER RIVER WATERSHED
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
OWNER/OPERATOR
COUNTY OF RIVERSIDE, OWNER/OPERATOR
COACHELLA VALLEY WATER DISTRICT, OWNER/OPERATOR
AND INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE
WHITEWATER RIVER WATERSHED, OWNERS/OPERATORS**

A. FINDINGS

The California Regional Water Quality Control Board, Colorado River Basin Region (*Regional Water Board*) finds that:

Background

1. On November 21, 2012, the County of Riverside (*County*) and the Riverside County Flood Control and Water Conservation District (*RCFC&WCD*), in cooperation with the Coachella Valley Water District (*CVWD*) and incorporated cities, including the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage (hereinafter collectively referred to as the *Permittees*¹), jointly submitted *National Pollutant Discharge Elimination System (NPDES)* Application No. CAS617002 and a *Report of Waste Discharge (ROWD)* for re-issuance of the third term *MS4 NPDES* permit (*MS4 Permit*).
2. For the purposes of this *MS4 Permit*, the following two *Permittees* are identified as the *Principal Permittees*:

County of Riverside, 4080 Lemon Street, P.O. Box 1090, Riverside, California 92501-1090; and

Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501

The *CVWD* and each of the Cities are identified as a *Co-Permittee*. Collectively, the *Principal Permittees* and the *Co-Permittees* comprise the *Permittees*. Under this organizational framework, the *Principal Permittees* are responsible for coordinating collective *Permittee* activities required by the *MS4 Permit*, including report preparation and submittals to the *Regional Water Board*.

¹ Permittee(s) and discharger(s) are used interchangeably in this *MS4 Permit*. Also, see Section K. Glossary of Terms for definitions of certain terms used in this *MS4 Permit*. Defined terms are capitalized and shown in italicized, bold lettering throughout the *MS4 Permit*.

A. FINDINGS

3. The **County** and the incorporated Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage are general purpose governments with specified land use authorities and code enforcement powers.
4. **RCFC&WCD** and **CVWD** are special purpose districts established by the State Legislature, and are not general purpose governments with land use authorities or code enforcement powers. The **RCFC&WD** and **CVWD** do not own or operate any public streets, roads, or highways, and have no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, **New Development** or **Redevelopment Projects**, or development construction sites located in any incorporated or unincorporated areas within their service areas.
5. The urbanized area of the **Whitewater River Watershed** under the jurisdiction of the **Permittees** and covered by this **MS4 Permit** is referred to herein as the **Whitewater River Region**. The **MS4 Permit** area referred to as the **Whitewater River Region** is shown in Attachment A – Site Map, incorporated herein, and made a part of this **MS4 Permit** by reference.
6. The **Whitewater River Watershed** is an arid desert region in **Riverside County** encompassing an area of approximately 1,645 square miles. The **Whitewater River Region** accounts for approximately 367 square miles (22%) of the **Whitewater River Watershed**.
7. The **USEPA** Phase I **Storm Water** Final Rule became effective on December 17, 1990. The Phase I rule sets forth **NPDES** application requirements for: **Storm Water** discharges associated with industrial activity; discharges from a **MS4** serving a population of 250,000 or more (defined as Large **MS4s**); and discharges from **MS4s** serving a population of 100,000 or more but less than 250,000 (defined as Medium **MS4s**). On March 14, 1991, the **Executive Officer** designated the **Whitewater River Region** as an area required to have a Phase 1 **NPDES MS4 Permit**. It is estimated that as of January 1, 2012, approximately 483,449² persons resided in the incorporated and unincorporated areas of the **Whitewater River Region**.
8. The City of Banning, although included as a **Permittee** on this **MS4 Permit**, does not share an interconnected **MS4** with the remainder of the **Permittees**. The **MS4** operated by the City of Banning discharges directly into the San Gorgonio River, an ephemeral **Receiving Water**. Most **MS4** discharges from the City of Banning infiltrate. Rarely and only during significant runoff events, storm drainage may flow as far as the **CVWD** infiltration basins near the City of Palm Springs, which are located several miles upstream of **Urban Runoff** discharges from the **MS4s** operated by the other **Permittees**. However, the City of Banning is included in this

² State of California, Department of Finance, *E-4 Population Estimates for Cities, Counties, and the State, 2001-2010, with 2000 & 2010 Census Counts*. Sacramento, California, November 2012. Website link to document: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-4/2001-10/view.php/>.

Southern California Association of Governments, "Adopted 2008 RTP Growth Forecast, by City." Website link to document: <http://www.scag.ca.gov/forecast/index.htm/>.

A. FINDINGS

MS4 Permit to facilitate coordination with the regional programs implemented by the **Permittees** and to reduce the administrative duties on the **Regional Water Board**.

9. The City of Desert Hot Springs also does not share an interconnected **MS4** with the remainder of the **Permittees**. The **MS4** operated by the City of Desert Hot Springs drains to several washes tributary to the Little and Big Morongo Washes, which are **Receiving Waters**. Most discharges from the City of Desert Hot Springs infiltrate. Rarely, and only during significant storm events, would any storm drainage flow into the Whitewater River. However, the City of Desert Hot Springs is included in this **MS4 Permit** to facilitate coordination with the regional programs implemented by the **Permittees** and to reduce the administrative duties on the **Regional Water Board**.
10. The **Permittees** submitted a revised **Whitewater River Region Storm Water Management Plan (SWMP)** for approval by the **Executive Officer** on June 29, 2009; an errata version of the **SWMP** was subsequently created by the **Permittees** in 2011. The **SWMP** is incorporated by reference as an enforceable element of this **MS4 Permit**. Future **Permittee** revisions of the **SWMP**, once approved by the **Executive Officer**, also become enforceable components of this **MS4 Permit**.
11. This **MS4 Permit** requires the **Permittees** to revise the **SWMP** to incorporate the new requirements described herein.
12. Within the **Whitewater River Region**, it is necessary for the **Permittees** to coordinate their **Urban Runoff** management activities to achieve appropriate protection of **Receiving Water** quality. Establishment of a management structure will assist the **Permittees** subject to this **MS4 Permit** to fund and coordinate those aspects of their joint obligations. Also, this management structure will promote cost-effective implementation of the **SWMP** within the **Whitewater River Region**.
13. The **Permittees** entered into an **Implementation Agreement** to carry out the activities, regional compliance programs and responsibilities prescribed in the previously issued **NPDES Permit**, Order No. R7-2008-0001. The **Implementation Agreement** sets forth the working framework among the multiple **Permittee** agencies. Specific provisions of that agreement include cost sharing for public education activities and water quality monitoring. The **Implementation Agreement** provides non-binding guidance as to the organizational framework of the **Principal Permittees** and **Co-Permittees** and their respective responsibilities, duties, and obligations imposed by Order No. R7-2008-0001. The **Permittees** intend to review and amend the **Implementation Agreement** to address the requirements of this **MS4 Permit**.
14. An **MS4** program audit conducted at the City of Palm Springs by **Regional Water Board** staff and a **USEPA**-contracted auditor in June 2012 confirmed that the City's storm water program was demonstrating compliance with the 2008 **MS4 Permit**.

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15. The **Permittees** lack legal jurisdiction over discharges into their respective **MS4s** from certain facilities, entities, properties, and other **Point** and **Non-Point Source** discharges otherwise permitted by or under the jurisdiction of the **Regional Water Board**. The **Regional Water Board** finds that the **Permittees** are not responsible for such discharges. Similarly, certain activities that generate **Pollutants** present in **Urban Runoff** are beyond the ability of the **Permittees** to eliminate. Examples may include: operation of internal combustion engines, atmospheric deposition, brake pad and tire wear, bacteria from wildlife (including feral dogs and cats) and transient encampments, or from bacterial resuscitation or reactivation from treated waters or growth of bacteria in the environment (such as in sediments, surface water, or other substrate), and leaching of naturally occurring nutrients and minerals from local soils, residues from lawful application of pesticides, nutrient runoff from landscape activities, and leaching of naturally occurring minerals from local geology. This **MS4 Permit** is not intended to address background or naturally occurring pollutants or flows.
16. Certain areas and facilities in the **Whitewater River Region** are excluded from coverage under this **MS4 Permit** because the **Regional Water Board** finds that those areas can be and/or are being addressed through other regulatory programs, including programs administered by the **Regional Water Board** and other federal, state and local regulatory agencies. Excluded areas include:
- Federal lands and state properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;
 - Native American tribal lands;
 - Open space and rural (non-urbanized) areas;
 - Agricultural lands (exempted under the **CWA**); and
 - Utilities and special districts (including school districts, park districts, publicly owned treatment works and water utilities).
17. **Whitewater River Region SWMP** requirements apply to all **MS4** facilities covered under this **MS4 Permit** that are operated by the **Permittees** on Municipal and Tribal Lands. As described in **USEPA's** Tribal Policy, regulation of any potential **MS4** operating under Tribal jurisdiction would take the form of a permit from the federal agency (**USEPA**) to the Tribe, in accordance with Tribal sovereignty. On May 24, 2011, **USEPA** issued a letter to the Agua Caliente Band of Cahuilla Indians (Tribe) clarifying that the Tribe is not the operator of an **MS4** required to maintain coverage under a **NPDES** Permit. **USEPA** determined, based on an assessment of the unique pattern of State and Tribal jurisdiction in the area, and the provisions of existing land use contracts between the Tribe and state and municipal authorities, that the Tribe is not presently the owner or operator of a regulated **MS4** within an urbanized area. **USEPA** determined that under the existing structure of land-use agreements with local government entities including the **Permittees**, areas currently under direct tribal jurisdiction meet the criteria specified in CFR section 122.32(d), and have a sufficiently low total population to qualify for a waiver from **MS4** permit requirements.

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Tribal land intersects with Cathedral City, Rancho Mirage, Palm Springs, and unincorporated areas of **Riverside County** in a checkerboard pattern. In order to address the unique logistical issues of managing checkerboard areas for government services, the Tribe entered into land use contracts with certain local government entities. The provisions of these contracts vary, and may cover a host of land use issues, including land use ordinances and statutes required to be administered by each local government entity. However, the Tribe retains sovereign authority over its lands, including authority to override municipal requirements with regard to the management of tribal lands. In the event the Tribe chooses to exercise this authority to override municipal requirements, it could place itself in the position of being an owner/operator of a regulated **MS4** and be required to obtain permit coverage on the land(s) affected. Additionally, in its position as trustee for all Tribal and Allotted Trust Lands, the U.S. Department of the Interior Indian Affairs Bureau of Indian Affairs holds ultimate authority and duty to negotiate, execute, and otherwise administer existing and future leases of trust lands.

18. Discharges of **Storm Water** runoff from lands owned by the California Department of Transportation (**CalTrans**) are currently regulated under a separate **NPDES** permit (Order No. 2012-0011-DWQ – **NPDES** No. CAS000003) issued by the **State Water Resources Control Board (State Water Board)**. **CalTrans** is required to comply with specific **Effluent Limitations** prior to discharging from its right-of-way into the **MS4** operated by the **Permittees**.

Urban Runoff Characterization

19. **Urban Runoff** contains **Waste**, as defined in the **CWC**, which contains **Pollutants** that could adversely affect the quality of the **Waters of the State**. The discharge of **Pollutants** in **Urban Runoff** from a **MS4** is a "discharge of **Pollutants** from a **Point Source** into **Waters of the United States**" as defined in the **CWA**.
20. **Urban Runoff** may contain elevated levels of pathogens (bacteria, protozoa, viruses), **Sediment**, trash, fertilizers (nutrients, compounds of nitrogen and phosphorus), pesticides (DDT, chlordane, diazinon, chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons). **Urban Runoff** may carry these **Pollutants** to **Receiving Waters** within the **Whitewater River Region**. In addition, although infrequently, **Urban Runoff** from the **Whitewater River Region** may carry these **Pollutants** to other **Receiving Waters**, such as the Whitewater River. These **Pollutants** can then impact the **Beneficial Uses** of the **Receiving Waters** and may cause or threaten to cause a condition of **Pollution** or **Nuisance**.
21. Pathogens (from **Sanitary Sewer Overflows (SSO)**, septic system leaks, and spills and leaks from portable toilets, pets and human activities) may impact water contact recreation and non-contact water recreation. Floatables (from trash) are an aesthetic **Nuisance** and may provide a substrate for algae and insect vectors. Oil and grease may coat birds and aquatic organisms, adversely affecting respiration and/or thermoregulation. Other petroleum hydrocarbon components

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may cause **Toxicity** to aquatic organisms and may impact human health. Suspended and settleable solids (from **Sediment**, trash, and industrial activities) may be deleterious to benthic organisms and may cause anaerobic conditions. **Sediments** and other suspended particulates may cause turbidity, clog fish gills, and interfere with respiration in aquatic fauna. **Sediment** and other suspended particles may also screen out light, hindering photosynthesis and normal aquatic plant growth and development.

22. It is recognized that **Storm Water** flows from non-urbanized areas such as National Forests, State Parks, Wilderness, and Agriculture, as shown on the Site Map (Attachment A), naturally exhibit high levels of suspended solids due to climate, hydrology, geology, and geography.³ Runoff from these non-urbanized areas may flow into the MS4 and affect flow and water quality. Toxic substances (from pesticides, petroleum products, metals, and industrial **Wastes**) may cause acute and/or chronic **Toxicity**, and may bioaccumulate in organisms to levels that may be harmful to human health. Nutrients (from fertilizer use, firefighting chemicals, decaying plants, confined animal facilities, pets, and wildlife) may cause excessive algal blooms. These blooms may lead to problems with odor, color and increased turbidity, and may depress the dissolved oxygen content leading to fish kills.
23. There is a direct correlation between "urbanization" and "impacts to receiving water quality." In general, the more heavily developed the area, the greater the potential impact to receiving waters from **Urban Runoff**.
24. During urban development two important changes may occur:
 - a. Natural pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots. Natural soil can both absorb rainwater and remove **Pollutants**. Because pavement and concrete can neither absorb water nor remove **Pollutants**, the absorptive characteristics of the land are greatly reduced; and
 - b. Urban development may create new **Pollution** sources as human population density increases and brings with it proportionately higher levels of vehicle emissions, vehicle maintenance **Wastes**, municipal sewage, pesticides, **HHW**, pet wastes, trash, etc., which may either be washed into or directly dumped into the **MS4**.

Because of these two changes the runoff leaving the developed urban area may be significantly greater in volume, velocity, and **Pollutant** load than the predevelopment runoff from the same area. These effects are minimized when effective **Best Management Practices (BMPs)** to manage **Urban Runoff** are implemented and maintained.

³ Riverside County Flood Control and Water Conservation District's "Hydrology Manual," dated April 1978; page II-4 of "Santa Ana River, Design Memorandum No. 1, Phase II GDM on the Santa Ana River Mainstem, including Santiago Creek, Volume 2, Prado Dam" dated August 1988 and D.I. Inman & S.A. Jenkins "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," Journal of Geology, Volume 107, pp. 251-270, 1999.

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25. **Urban Runoff** may contain **Pollutants** that may threaten human health. Individually and in combination, **Pollutants** discharged from **MS4s** may cause or threaten to cause a condition of **Pollution** (i.e., an alteration of water quality by **Waste** to a degree which unreasonably affects the waters for designated **Beneficial Uses** and/or facilities which serve these designated **Beneficial Uses**) or **Nuisance**. The discharge of **Pollutants** from **MS4s** may cause the concentration of **Pollutants** to prevent attainment of applicable **Receiving Water Quality Objectives (WQO)** and thereby impair or threaten to impair designated **Beneficial Uses**.

Rationale for Requirements

26. The **Regional Water Board** developed the requirements in this **MS4 Permit** based on information submitted as part of the 2012 **ROWD, Whitewater River Region** monitoring and reporting data, program audits, and other available information and consistent with the **CWA, CWC** and regulations adopted thereunder.

27. The Fact Sheet, Section O. of this **MS4 Permit**, contains additional background information and rationale for requirements specified in this **MS4 Permit**, and constitutes part of the Findings for this **MS4 Permit**.

28. This **MS4 Permit's Receiving Water Limitations** language is consistent with Order WQ 99-05, adopted by the **State Board** on June 17, 1999, and Order WQ 2001-15, adopted by the **State Board** on November 15, 2001. **Receiving Water Limitations** apply to all **Permittees** as set forth in Section D of this **MS4 Permit**.

29. The **Permittees** are separate legal entities and, as such, have the authority to develop, administer, implement, and enforce **Urban Runoff** management programs only within their respective jurisdictions. In addition, the **Permittees** have maintenance responsibilities for the **MS4** facilities within their jurisdictional boundaries. Therefore, the **Permittees** are responsible for implementing that portion of the **Urban Runoff** management program for discharges to and from their **MS4** facilities that is commensurate with those jurisdictional limitations.

Characteristics of the Whitewater River Region

30. The **Whitewater River Region** lies within the Whitewater River Hydrologic Unit and is unique relative to other regulated **MS4s**. Some of the unique characteristics are:

Climate

- Climatic conditions in the **Whitewater River Region** are arid. The winters are mild and summers are hot, with temperatures ranging from below freezing to over 120°F. Evapotranspiration rates in the **Whitewater River Region** are among the highest to be found throughout the State, with an average reference evapotranspiration of 71.6 inches per year.⁴

⁴ Measured using data from weather stations deployed throughout the Coachella Valley. California Irrigation Management Information System (CIMIS), at <http://www.cimis.water.ca.gov/cimis/images/etomap.jpg>

Rainfall

- Precipitation in the **Whitewater River Region** averages 3.6 inches per year.⁵ This is 65-75% less annual precipitation than the western portions of **Riverside County** that drain to the coast and coastal counties in Southern California.

Table A.1. Average Annual Rainfall by Regional Water Board Jurisdiction/Watershed

Region/watershed	Average Annual Rainfall (inches)
R8/Santa Ana	12.0
R9/Santa Margarita	15.5
R4/Los Angeles County	13.2
R9/San Diego County	10.8
R7/Whitewater	3.6

- In addition to the overall lack of precipitation there is no defined **Rainy (Wet) Season** within the **Whitewater River Watershed**. Convective rainfall events (summer thunderstorms) make up a large portion of **Whitewater River Region** annual rainfall, in contrast to the general winter precipitation that dominates rainfall events in western Riverside County and the coastal plains. When storms occur, they tend to be discrete convective cells, and feature short but intense rainfall, typical of monsoonal thunderstorms; individual storm events typically are local and rarely affect the entire drainage network.

Land Use

- Approximately 33 percent⁶ of the **Whitewater River Region** is comprised of urban land uses (residential, commercial, industrial parks and recreation facilities and streets and roads). Although portions of the **Whitewater River Region** experienced rapid growth from 2000 through 2006, the economic recession has resulted in little development or population growth since adoption of the 2008 **MS4 Permit**. It is projected that the population of the **Whitewater River Region** will increase approximately 6.7 percent by 2015.⁷ Assuming that the **Whitewater River Region's** population and urbanized areas increase at a proportional rate, approximately 65 percent of the **MS4 Permit** area would remain in non-urban land uses in 2015.
- Approximately 60 percent of the **Whitewater River Watershed** consists of federal, state, and tribal lands⁸ that are not under the jurisdiction of the **Permittees**.

⁵ Water Quality Control Plan, Colorado River Basin – Region 7, California Regional Water Quality Control Board, State Water Resources Control Board. June 2006, p. 1-8.

⁶ County of Riverside Assessor, current as of February, 2013.

⁷ California Department of Finance at <http://www.dof.ca.gov/research/demographic/reports/projections/interim/view.php>, Riverside County Center for Demographic Research at

http://www.rctlma.org/rcd/content/projections/PHEProjections_2010.pdf June 2010

⁸ County of Riverside Assessor, current as of February, 2013.

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Soils and Geology

- The **Whitewater River Region** is located in a wide valley; perennial stream flows from surrounding mountains have deposited bouldery alluvial fans comprised of loosely packed, highly pervious soils where they have interfaced with the flat valley floor. Field inspections and inspection of aerial photography demonstrate that most of the development in the **Whitewater River Region** has occurred at or near the base of the mountains, on or near historical alluvial fans⁹.
- Alluvial-fan flash flooding from the surrounding mountain ranges has been recorded in the **Whitewater River Region**, beginning as early as 1825.¹⁰ Many of the **Receiving Waters** tributary to the Whitewater River, which historically have not featured concentrated stream flows due to their location on alluvial fans have been captured by existing flood control works at the alluvial fan apex and channelized to mitigate flood hazards to **Whitewater River Region** life and property.¹¹
- The predominant soil types within the **Whitewater River Region** are classified as Carsitas and Myoma.¹² These sands are extremely pervious, and promote rapid infiltration of runoff.
- The southeastern portion of the **Whitewater River Region**, which includes sections of Indio, La Quinta, Coachella and unincorporated County area, sits atop a shallow subterranean clay lens; typical for the most downstream reach of an ephemeral waterbody. These portions of the **Whitewater River Region** feature shallow depth to groundwater.¹³
- Due to the small percentage of the **Whitewater River Watershed** and the **Whitewater River Region** in urban land uses, **Permittee** requirements for **New Developments** to retain **Urban Runoff**, and natural soil conditions, **Urban Runoff** constitutes a minor percentage of the total flow in the Whitewater River during storm conditions. During non-storm conditions, **Urban Runoff** discharges to **Receiving Waters** in the **Whitewater River Region** are also relatively minor based on flow volume.

Hydrology

- The Whitewater River is the major drainage course in the Whitewater River Hydrologic Unit Planning Area, and is defined in the **Basin Plan** as the reach from the headwaters in the San Gorgonio Mountains to (and including) the Whitewater recharge basins near the Indian Canyon Drive crossing in the City of Palm Springs. The reach of the Whitewater River from the Whitewater recharge basins near Indian Canyon Drive to the **CVSC** near Indio is defined as a Wash (Intermittent or **Ephemeral Stream**) in the **Basin Plan**. Tributary

⁹ Riverside County Flood Control, March 2013.

¹⁰ Discussion excerpted from Coachella Valley Integrated Regional Water Management Plan. Prepared by **Coachella Valley Regional Water Management Group**. December 2010. Available at www.cvrwmg.org.

¹¹ Riverside County Flood Control, March 2013.

¹² "Soils of the Coachella Valley." Coachella Valley Water District.

<http://www.cvwd.org/conservation/soils.php>

¹³ California Department of Water Resources, Coachella Valley Investigation, Bulletin 108, July 1964.

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Receiving Waters to this reach exhibit perennial flow in the surrounding mountains, but because of diversions and percolation into the basin, these perennial flows typically infiltrate, evaporate or are consumed through evapotranspiration before reaching the **Whitewater River Region**.

- Within the **Whitewater River Region**, the Whitewater River and its tributaries are dry ephemeral washes. Due to soil type and lack of interflow contributions, time and volume of flow in **Receiving Waters** after storm events are minimal. Flow in the Whitewater River downstream of the Whitewater recharge basins is so infrequent that several sections of the channel have been integrated into golf courses.
- While developing the 2012 **ROWD**, the **Permittees** aggregated and reviewed rainfall and United States Geological Survey (USGS) flow data for Palm Canyon Creek, a **Receiving Water** tributary to the Whitewater River, located in the City of Palm Springs. Twenty-three years of data showed that the reach of Palm Canyon Creek located within the **Whitewater River Region** exhibited flow due to discharges of **Urban Runoff** from the urbanized area, an average of less than 1 percent of the days of each year.¹⁴
- The **CVSC** is the 25 mile long, constructed downstream extension of the Whitewater River channel, beginning west of Washington Street in La Quinta and ending on the north shore of the Salton Sea. The lower 17-mile reach of the **CVSC** is the only surface waterbody in the **Whitewater River Region** that features perennial flow; these flows are dominated by effluent from **NPDES**-permitted **POTW** discharges, rising groundwater, and agricultural return flows.¹⁵
- **CVWD** operates and maintains the **CVSC** and the regional subsurface drainage collection system for the Coachella Valley, which drains to the **CVSC**. General information from **CVWD**'s 2011 Annual Review and Water Quality Report states approximately 251,249 acre feet of water was provided for irrigation. Approximately one-third of the applied volume is water that drains to the subsurface drainage collection system to the **CVSC**.
- Within the **Whitewater River Region**, both the Whitewater River and the **CVSC** are stabilized, engineered and maintained dry washes. Although the Whitewater River follows the general path of the historic waterbody, there was no pre-existing dry wash for the **CVSC**. Channel design capacity attenuates as the river moves through the **MS4 Permit** area. The Standard Project Flood (SPF)¹⁶ peak discharge is approximately 86,000 cubic feet per second (cfs) at Windy Point within the Whitewater River, and 82,000 cfs at Washington Street in La Quinta, where the **CVSC** begins. The SPF peak discharge for the **CVSC**

¹⁴ Report of Waste Discharge, November 23, 2012. Whitewater River Region Permittees.

¹⁵ U.S. Geological Survey National Streamflow Information Program; California Regional Water Quality Control Board, Colorado River Basin, **Basin Plan**, Table 2-3; Coachella Valley Final Water Management Plan, September 2002; Coachella Valley Water Management Plan 2010 Update, Draft Report, December 2010.

¹⁶ Whitewater River Basin Feasibility Report for Flood Control and Allied Purposes, San Bernardino and Riverside Counties, California. Appendix 1, Hydrology. U. S. Army Corps of Engineers, May 1980.

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is 67,000 cfs at the outlet to the Salton Sea.¹⁷ The Whitewater River and **CVSC** are designed to convey these flows with a minimum of 1 foot of freeboard.

Colorado River Region Basin Plan

31. The **Basin Plan**, as amended to date, designates the **Beneficial Uses** of ground and surface waters in the Colorado River Basin Region. The **Whitewater River Region** lies within the Whitewater River Hydrologic Unit Planning Area.
32. The majority of surface water bodies within the **Whitewater River Region** are designated as **Washes**. These include the Whitewater River, starting from the Whitewater recharge basins located west of the City of Palm Springs and extending to the upstream channel reach located one-quarter mile west of the Monroe Street crossing near the City of Indio. The majority of the urban area in the **Whitewater River Region** drains into this reach of the Whitewater River. The **Permittee's MS4** facilities drain into the following **Washes**:
- Smith Creek
 - Montgomery Creek
 - West Cathedral Canyon Channel
 - East Cathedral Canyon Channel
 - West Magnesia Canyon Channel
 - East Magnesia Canyon Channel
 - Palm Valley Storm Water Channel
 - Deep Canyon Storm Water Channel
 - Bear Creek
 - La Quinta Resort Channel
 - La Quinta Evacuation Channel
 - Whitewater River from Whitewater recharge basins to the **CVSC**

The designated **Beneficial Uses** for the aforementioned **Washes** are Freshwater Replenishment (**FRSH**), Groundwater Recharge (**GRW**), Non-contact Water Recreation (**REC 2**) and Wildlife Habitat (**WILD**). Each of the uses in these **Washes** are identified as being intermittent, meaning that they are only applicable if flows are sufficient to support those uses.

33. The **Permittees** also own and operate **MS4** facilities that discharge **Urban Runoff** into the following surface water bodies, which have additional designated **Beneficial Uses**:
- a. Mission Creek
 - b. San Gorgonio River
 - c. Whitewater River
 - d. Tahquitz Creek
 - e. Palm Canyon Creek

¹⁷ Flow in the CVSC decreases over distance travelled towards the Salton Sea due to infiltration in the unlined channel

- f. Little Morongo Creek
- g. CVSC

Beneficial Uses for these specific water bodies are identified and summarized in the following table. In addition to the **Beneficial Uses** described above, these include Municipal and Domestic Supply (**MUN**), Agriculture Supply (**AGR**), Aquaculture (**AQUA**), Industrial Service Supply (**IND**), Water Contact Recreation (**REC 1**), Warm Freshwater Habitat (**WARM**), Cold Freshwater Habitat (**COLD**), Hydropower Generation (**POW**) and Preservation of Rare, Threatened or Endangered Species (**RARE**). Note that existing **Beneficial Uses** are designated by X; potential **Beneficial Uses** are designated by P, and intermittent uses by I:

Waterbody	MUN	AGR	AQUA	FRSH	IND	GWR	REC1	REC2	WARM	COLD	WILD	POW	RARE	Location
CVSC ¹⁸				X			X ¹⁹	X ²⁰	X		X		X ²¹	Perennial reach from approx. Dillon Road to Salton Sea
Little Morongo Creek	P	X				X	X	X	X		X			
Palm Canyon Creek	P	X				X	X	X	X		X			
San Gorgonio River	P	X				X	X	X		X	X			
Tahquitz Creek	P					X	X	X		X	X			
Whitewater River ²²	X	X				X	X	X	I	X	X	X		From headwaters to Whitewater Recharge Basins
Washes²³ (Ephemeral Streams)				I ²⁴		I		I	²⁵		I			Whitewater River and CVSC from Indian Canyon Dr. to approximately ¼ mile west of Monroe Street crossing.

34. Numeric and narrative **WQOs** exist for the **Receiving Waters** in the **Whitewater River Region**. It is not feasible or appropriate at this time to establish **Numeric Effluent Limitations** due to the variability in the quality, quantity, and complexity

¹⁸ Section of perennial flow from approximately Indio to the Salton Sea.

¹⁹ Unauthorized use.

²⁰ Unauthorized use.

²¹ Rare, endangered or threatened wildlife exists or utilizes these waterway(s). If the **RARE Beneficial Use** may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered or threatened species on a case-by-case basis is upon the California Department of Fish and Game on its own initiative and/or at the request of the **Regional Water Board**; and such substantiation must be provided within a reasonable time frame as approved by the Regional Water Board.

²² Includes the section of flow from the headwaters in the San Gorgonio Mountains to (and including) the Whitewater recharge basins near Indian Avenue crossing in Palm Springs.

²³ Washes – Intermittent or **Ephemeral Streams**, including the section of ephemeral flow in the Whitewater River and the **CVSC** from Indian Canyon Drive to approximately ½ mile west of Monroe Street crossing.

²⁴ Applies only to tributaries to Salton Sea.

²⁵ Use, if any, to be determined on a case-by-case basis.

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of **Urban Runoff**. Moreover, the impact of **Urban Runoff** discharges on the quality of **Receiving Waters** has not been fully determined.

35. Therefore, the **Effluent Limitations** contained in this **MS4 Permit** are narrative and include the **SWMPs** requirement to implement appropriate **BMPs**. The narrative **Effluent Limitations** constitute compliance with the requirements of the **CWA** and can be found in Section B. DISCHARGE PROHIBITIONS, Section D. **RECEIVING WATER LIMITATIONS** and Section G. IMPLEMENTATION OF **TOTAL MAXIMUM DAILY LOADs** of this **MS4 Permit**.

CWA Section 303(d) Listed Waterbodies and Total Maximum Daily Loads (TMDLs)

36. Section 305(b) of the **CWA** requires **USEPA** and each state that has been delegated **NPDES** Permitting authority to routinely monitor and assess the quality of waters in their respective regions. If this assessment indicates that **Beneficial Uses** are not met, then the waterbody must be listed under Section 303(d) of the **CWA** as an **Impaired Waterbody**.
37. On October 11, 2011 the **USEPA** issued its final decision regarding the water bodies and pollutants added to the California 303(d) List. Within the **MS4 Permit** area, the **CVSC** has been identified as impaired for pathogens in that portion from Dillon Road to the Salton Sea. The source of these pollutants is unknown.
38. Federal regulations require that a **TMDL** be established for each 303(d) listed waterbody for each of the **Pollutants** causing **Impairment**. The **TMDL** is the total amount of a **Pollutant** that can be discharged to a subject waterbody, while still enabling the waterbody to attain **Water Quality Standards (WQSs)** in the **Receiving Water**. Attaining **WQSs** means that the receiving waterbody's **Water Quality Objectives (WQOs)** are met and its **Beneficial Uses** are protected. The **TMDL** is the sum of the individual **Waste Load Allocations (WLAs)** for point source inputs, **Load Allocations (LAs)** for **Non-Point Source** inputs and natural background, and a margin of safety. The **TMDLs** are one of the bases for limitations established in **Waste Discharge Requirements (WDRs)**.
39. The **Regional Water Board** adopted a **Basin Plan** amendment incorporating the **CVSC** Bacterial Indicators **TMDL** of Escherichia coli (E. coli) on May 16, 2007, and as further modified on June 17, 2010. The **TMDL** was subsequently approved by the **State Board** on July 19, 2011, approved by the Office of Administrative Law on February 2, 2012 and approved by **USEPA** on April 27, 2012. The **USEPA** approved the **TMDL** on the condition that the **Basin Plan** would be subsequently amended to reduce the number of bacterial indicators from three (fecal coliform, enterococci, and E. coli) to just the single indicator of E. coli to be consistent with the approved **CVSC** Bacterial Indicators **TMDL**.
40. The **Regional Water Board** satisfied that **USEPA** condition by amending the **Basin Plan** to specify E. coli as the sole bacterial indicator for the **CVSC**. This amendment was approved by the **Regional Water Board** on June 17, 2010, the **State Board** on July 19, 2011, the Office of Administrative Law on February 2, 2012 and the **USEPA** on April 27, 2012.

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41. The **CVSC** Bacterial Indicators **TMDL** established limits for bacterial source indicators for the **CVSC** from Dillon Road to the Salton Sea. The **CVSC** Bacterial Indicators **TMDL** Source Analysis identified **MS4** operated by the City of Coachella as a potential source of bacterial indicators.
42. The **CVSC** Bacterial Indicators **TMDL** specifies **WLAs** for **Point Sources** including the City of Coachella's **MS4**, **CalTrans**, Valley Sanitary District wastewater treatment plant, Coachella Sanitary District wastewater treatment plant, and Mid-Valley Water Reclamation Plant; as well as **LAs** for agricultural runoff, federal lands, tribal lands and septic systems. To protect **REC-I Beneficial Uses**, the **TMDL** has specified a **WLA** for E. coli.
43. The **CVSC** Bacterial Indicators **TMDL** specifies that if it is to be implemented in the Whitewater River Watershed **MS4 Permit**, Water Quality Based Effluent Limits (**WQBELs**) are to be expressed as narrative management practices rather than direct application of **Numeric Effluent Limitations**.
44. The City of Coachella has proactively implemented structural **Best Management Practices (BMPs)** to effectively infiltrate all **Dry Weather Urban Runoff** prior to reaching **MS4 Outfalls** regulated by the **CVSC** Bacterial Indicators **TMDL**. These structural **BMPs** were completed in 2011 with additional modifications planned to improve the effectiveness of the Avenue 52 outfall controls. These **BMPs** ensure that there are no discharges from the City's **MS4** during **Dry Weather**.
45. The **CVSC** Bacterial Indicators **TMDL** Implementation Plan is divided into two phases. Phase I actions will take three years to complete and focus on monitoring and addressing bacterial indicators associated with wastewater discharges from **MS4** and other **NPDES** facilities. If E. coli **WQOs** are not achieved by the end of Phase I, **Regional Water Board** staff will implement additional actions to control E. coli sources in Phase II (within seven years after the end of Phase I). Section 2.3 of the **CVSC** Bacterial Indicators **TMDL** states:

"If monitoring and assessment in Phase I indicate that waste discharges to the **CVSC** from anthropogenic activities violate this **TMDL**, and that violations persist despite recommended operation and maintenance procedures and control measures in existing permits, the **Regional Water Board** shall require the implementation of additional actions to control anthropogenic sources of bacteria in Phase II. The **Regional Water Board** will require the responsible parties to select and implement new/additional management practices for Phase II, following characterization of these sources and a determination of whether these sources can be controlled. This determination shall take into consideration background conditions and cost factors. The **Regional Water Board** may revise **MS4** permit water quality based effluent limitations, which may be expressed in terms of narrative management practice (MP) requirements. The **Regional Water Board** may also consider revising **WQOs** for **CVSC** to address natural background sources of bacteria...."

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Water Quality Based Effluent Limitations (WQBELs) and TMDL WLA

46. In *Defenders of Wildlife, et al v. Browner*, 191 F.3d 1159 (9th Cir. 1999), the court held, based on principles of statutory interpretation, that the 1987 Water Quality Act amendments to the **CWA** does not require municipal storm-sewer discharges to comply strictly with State **WQs** for **MS4** permits under section 301(b)(1)(C), but that such compliance may be included at the discretion of the permitting agency (*id.*, 191 F.3d at 1165). The Court explained that the language in section 402(p)(3)(A), which addresses discharges of storm water associated with industrial activity, and section 402(p)(3)(A), which addresses discharges from municipal storm-sewers, was unambiguous and showed Congress' intent to apply different requirements for these two types of storm water discharges. In particular, the Court noted that section 402(p)(3)(A) requires industrial storm water discharges to comply with all requirements of section 402(p) and section 301, which includes the requirement that such discharges "shall ... achiev[e] ... any more stringent limitation, including those necessary to meet water quality standards" (*id.*, 191 F.3d at 1165). In contrast, the Court observed that section 402(p)(3)(B) requires municipal storm-sewer discharges to comply with a completely different set of standards, which does not include a specific reference to section 301. Thus, the Court held that the language in section 402(p)(3)(B)(iii), which requires "controls to reduce the discharge of pollutants to the **Maximum Extent Practicable [MEP]**, including management practices, ..., and such other provisions as the [EPA] Administrator ... determines appropriate for the control of such pollutants," unambiguously showed that Congress gave the **EPA** Administrator discretion to determine what pollution controls are appropriate (*id.*, 191 F.3d at 1166). The Court commented that the EPA has exercised that discretion for municipal storm-sewer discharges by adopting an interim approach, which uses **BMPs** to provide for the attainment of water quality standards (*id.*, 191 F.3d at 1166). Federal implementing regulations at 40 CFR 122.44(k)(3) specifically allow the use of **BMPs** to control or abate the discharge of **Pollutants** when **Numeric Effluent Limitations** are infeasible or when practices are reasonably necessary to achieve **Effluent Limitations** and standards or to carry out the purposes and intent of the **CWA**. The legislative history and the preamble to the federal storm water regulations indicate that Congress and **USEPA** were aware of the difficulties in regulating **Urban Runoff** solely through traditional end-of-pipe treatment. It is the **Regional Water Board's** intent to require the **Permittees** to implement **BMPs** consistent with the **MEP** standard in order to support attainment of **WQs**. This **MS4 Permit** includes **Receiving Water Limitations** based on **WQOs**; it prohibits causing a condition of **Nuisance** and requires the reduction of **WQs** impairment in **Receiving Waters**. This **MS4 Permit** includes a procedure for evaluating whether the **SWMP** must be revised to include additional or more effective **BMPs** designed to meet **WQs**. This **MS4 Permit** establishes an iterative process to determine compliance with **Receiving Water Limitations**.

47. Federal regulations (40 CFR 122.44(d)(1)(vii)(B)), to the extent applicable to municipal **Stormwater** permits, require inclusion of **Effluent Limitations** that are "consistent with the assumptions and requirements of any available **WLA** for the discharge prepared by the State and approved by **USEPA**." Consistent with this requirement, this **MS4 Permit** includes **BMP**-based interim **WQBELs**. This **MS4**

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- Permit* additionally includes *BMP*-based final *WQBELs* which are based on the *WLA* for the *CVSC* Bacterial Indicators *TMDL*. This *MS4 Permit* includes requirements to develop and implement control measures necessary to achieve *WLAs* by the deadlines specified in the *CVSC* Bacterial Indicators *TMDL*.
48. Consistent with the *CVSC* Bacterial Indicators *TMDL* Implementation Plan, the City of Coachella submitted a monitoring program to the *Regional Water Board* on January 6, 2013. The *CVSC* Bacterial Indicators *TMDL* requires the City of Coachella to implement the monitoring program, upon approval, and submit a report on January 31, 2016 (with *Permittee Annual Reports*) indicating whether *Urban Runoff* violates the City of Coachella's *WLA*, whether the sources of violation are controllable and recommendations for additional *BMPs* that are appropriate given background conditions, cost factors and the status of *Regional Water Board* efforts to revise *WQOs* for the *CVSC* to address the City of Coachella's *WLA* (the 2016 QAPP).
49. These *WQBELs* are consistent with the assumptions and requirements identified in the *TMDL* Implementation Plans adopted with the *TMDLs* because the *BMPs* are expected to be sufficient to meet the *WLAs* by the compliance dates. The *CVSC* Bacterial Indicators *TMDL*, relies on this *MS4 Permit* to implement the *WLA* for the City of Coachella.

Compliance Schedules and Interim Requirements

50. Consistent with the *State Board's* Compliance Schedule Policy (Resolution No. 2008-0025), this *MS4 Permit* incorporates interim and final *Effluent Limits*, where applicable. Additionally, since the *TMDL* compliance dates are outside the term of this *MS4 Permit*, it is also appropriate to require *Permittees* subject to *TMDL* compliance dates that are outside the term of this *MS4 Permit* to monitor and report the effectiveness of *BMPs* implemented in the *MS4 Permit* area to evaluate progress towards attainment of *WLA* by the time schedules specified in the adopted *TMDL*. This *MS4 Permit* includes the schedules for deliverables as part of the *TMDL* Implementation Plan as well as a requirement to monitor the effectiveness of *BMPs* in the *MS4 Permit* area in reducing *Pollutant* discharges and to report progress towards compliance with the *TMDL WLA* by the compliance dates.

Whitewater River Region Water Quality

51. Neither the Whitewater River nor its tributaries are *CWA 303(d)* listed as *Impaired Waterbodies* for any *Pollutant* within the *Whitewater River Region*. Most of the waterbodies assessed within the *Whitewater River Region* for inclusion into *USEPA's* most current *305(b) Report* have been identified as having good water quality. Waterbodies listed as threatened or impaired do not identify *Urban Runoff* as a source.

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Table A.2. 305(b) Report Information for the Whitewater River Region²⁶

Waterbody Name	Type of Waterbody	Size	Units	Water Quality Status
Whitewater River	River	25	Miles	Good
Big Morongo Creek	River	15	Miles	Good
Little Morongo Creek	River	15	Miles	Good
CVSC	River	17	Miles	Impaired (Cause: Pathogens; Probable Source: Unknown)
Falls Creek	River	5.74	Miles	Good
Millard Canyon Creek	River	5	Miles	Good
Mission Creek	River	15	Miles	Good
Snow Creek (Riverside County)	River	3.3	Miles	Good
Tahquitz Creek	River	13.21	Miles	Threatened (Cause: Pathogens; Probable Source: Agriculture)
Twin Pines Creek	River	3	Miles	Threatened (Cause: Pathogens; Probable Source: Agriculture)

52. **Permittee Outfall and Receiving Water** monitoring data gathered during **Wet** and **Dry Weather** events during the past two **MS4 Permit** terms show that most conventional pollutants, including but not limited to nutrients, oil and grease, detergents, ammonia and nitrates, were not observed in exceedance of **Receiving Water Quality Objectives** listed in the **Basin Plan**.

53. As required by the 2001 and 2008 **MS4 Permits**, the **Permittees** performed water quality monitoring at the Upper Whitewater River **Receiving Water** monitoring station to "assist with determination of natural background concentrations of field parameters and constituents of concern that may also be found in **Urban Runoff**." Monitoring data from this location revealed elevated levels of Lead and Chromium, in amounts which exceed **Water Quality Objectives**, during **Wet Weather** conditions only. These constituents have also been found to be present in natural deposits and groundwater throughout the **Whitewater River Region**.^{27,28}

54. **Permittee MS4 Outfall and Receiving Water** monitoring data gathered over three **MS4 Permit** terms show that **Priority Pollutant** constituents have either never been detected, or have rarely been detected in the **Whitewater River Region**. Therefore, the requirement for analyses of **Priority Pollutants** has been eliminated from this **MS4 Permit**.

²⁶United States Environmental Protection Agency. "Watershed Quality Assessment Report." http://ofmpub.epa.gov/tmdl_waters10/attains_watershed.control?p_huc=18100200&p_state=CA&p_cycle=2004&p_report_type=A

²⁷Coachella Valley Water District. 2011 Domestic Water Quality Report. 2011.

²⁸Presser, Theresa, Sylvester, Marc, and Low, Walton. Bioaccumulation of Selenium from Natural Geologic Sources in Western States and Its Potential Consequences. Environmental Management Vol. 18, No. 3, pp.423-436. Springer-Verlag, 1994.

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Objectives of this MS4 Permit

55. Consistent with **State Board** orders, this **MS4 Permit** requires the **Permittees** to comply with applicable **WQSs** through an iterative approach, requiring the implementation of increasingly more effective **BMPs** until **WQSs** are being met. Aside from issues relating to the lower reach of the **CVSC**, which is being addressed through a **TMDL**, **Beneficial Uses** in **Whitewater River Region Receiving Waters** have been protected since **MS4 Permit** program inception. Therefore, the objectives of this **MS4 Permit** are to:
- a. Renew Board Order No. R7-2008-0001 **NPDES** No. CAS617002, which regulates **Urban Runoff** within the **Whitewater River Watershed**;
 - b. Regulate the discharge of **Potential Pollutants** in **Urban Runoff** that discharge to surface waters in the **Whitewater River Region**.
 - c. Implement regulatory requirements prescribed in the Water Quality Control Plan for the Colorado River Basin Region of California (**Basin Plan**), and requirements of Section 402(p) of the **CWA** and Title 40 Code of Federal Regulations (40 CFR) Part 122; and
 - d. Require implementation of preventative measures to assure maintenance of existing **Receiving Water** quality within the **Whitewater River Region**.

Federal NPDES Storm Water Regulations

56. Federal regulations for Phase I **MS4 Storm Water** discharges were promulgated by the **USEPA** on November 16, 1990 (40 CFR Parts 122, 123, and 124) and apply to the discharge regulated by this **MS4 Permit**.
57. Pursuant to Section 402 of the **CWA** and Section 13370 of the **CWC**, the **USEPA** approved the California State Program to issue and enforce **NPDES** permits for discharges to surface **Waters of the State**. Section 405 of the Water Quality Act of 1987 added Section 402(p) to the **CWA**, which requires the **USEPA** to develop a phased approach to regulate **Storm Water** discharges under the **NPDES** program.
58. Section 402(p)(2)(C) of the **CWA** requires the issuance of **NPDES** permits for **Storm Water** discharges from **MS4s** serving a population of 250,000 or more or serving populations between 100,000 to 250,000.
59. Section 402(p) of the **CWA** and the Phase 1 rule require **NPDES** permits for **MS4s** to include a requirement to effectively prohibit **Non-Storm Water** discharges into **MS4s** unless such discharges are either authorized by a separate **NPDES** permit or not prohibited in accordance with Section C. ALLOWABLE **NON-STORM WATER DISCHARGES** of this **MS4 Permit**. The requirement in the **CWA** to reduce **Pollutants** to the **MEP** provides a minimum level of water quality protection. The State may develop **WQS** more stringent than those required by the **CWA**.

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60. Title 40 CFR Section 122.26 requires a proposed management program that covers the duration of this **MS4 Permit**. It must include a comprehensive planning process that involves public participation and, where necessary, intergovernmental coordination to reduce the discharge of **Pollutants** to the **MEP** using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate. The proposed management program is described in the **Whitewater River Region SWMP**. The proposed management program shall include a description of **Structural** and **Source Control BMPs** to reduce **Pollutants** discharged from **Urban Runoff** into the **MS4** that are to be implemented during the term of this **MS4 Permit**.

Mitigation of Urban Runoff

61. **Pollutants** may be reduced in **Urban Runoff** by the appropriate application of **Pollution Prevention, Source Control, and Treatment Control BMPs** to the **MEP**.
62. This **MS4 Permit** provides flexibility for **Permittees** to request approval by the **Executive Officer** to substitute a **BMP** under this **MS4 Permit** with an alternative **BMP**, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed **BMP** in meeting the objectives of this **MS4 Permit**.

New Development/Redevelopment

63. **Permittees** with land use authority authorize urbanization and land uses that may generate **Pollutants** and runoff, which can contribute to the impairment of **Receiving Waters**. Therefore, the **Permittees** can also exercise their legal authority to require implementation of **BMPs** to the **MEP**, such that **New Development/Redevelopment** projects do not result in increases in **Pollutant** loads, and flows do not further degrade **Receiving Waters**.
64. Urban development has three major phases: (1) land use planning for **New Development**; (2) construction; and (3) the current land use or existing development phase. Because the **Permittees** with land use authority authorize each of these phases, they have commensurate responsibilities to protect **Receiving Water** quality to the **MEP** during each phase.
65. On October 5, 2000, the **State Water Board** adopted Order No. WQ-2000-11, Standard Urban Storm Water Mitigation Plans (SUSMPs), which is a precedential order. Order No. WQ-2000-11 determined that requiring **Urban Runoff** generated by the 85th percentile storm events from specific types of development categories be infiltrated, filtered or treated was consistent with **MEP**. The essential elements of this precedential order were incorporated into the 2008 **MS4 Permit**, and are incorporated herein. In accordance with the requirements specified in the 2008 **MS4 Permit**, the **Permittees** developed a model **Water Quality Management Plan (WQMP)** and template.

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66. Requirements for post-construction **Stormwater** controls have been implemented in the **Whitewater River Region** for many years. As detailed in Table A-3 below, through ordinance or municipal code, the cities of Cathedral City, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage have required specified **New Developments** to retain and infiltrate runoff on-site to mitigate increased runoff and downstream impacts many years prior to development and implementation of the post-construction requirements found in the 2008 **MS4 Permit**.

Table A.3. Permittees with Ordinances for On-site Retention Adopted Prior to Implementation of 2008 MS4 Permit Post-Construction Requirements

<i>Permittee</i>	<i>Ordinance</i>	<i>Description</i>	<i>Storm Event (Required Design Capture Volume)</i>
Cathedral City	Title 8, Sec. 8.24.070	Applies to development of all land within the City, with certain exceptions.	100% retention of the 100-year, 3-hr event
Indio	Title XV: Land Usage, Sec.162.140	Projects one-acre or greater	100% retention of the 100-year, 24-hr event
La Quinta	Title 13, Sec. 13.24.120	Applies to development of all land within the City, with certain exceptions.	100% retention of the 100-year, 24-hr event
Palm Desert	Ordinance #1247	Development and Re-development projects one acre or greater	100% retention of the 100-year, 24-hr event
Palm Springs	Ordinance #1768	Hillside residences and commercial projects over 2 acres, in drainage areas that are less than 70% developed.	Retain the difference between most conservative 100-year storm in the developed condition and the pre-development condition
Rancho Mirage	Title 15, Sec. 15.64.140	Properties one-acre or greater located north of Whitewater River	100% retention of the 100-year, 24-hr event

67. Since development of the **Whitewater River Region WQMP**, more **Permittees** (in addition to those listed in Table A.3 above) have implemented ordinances that require developments to retain **Stormwater** volumes or flows in excess of the 85th percentile storm event required by the **WQMP**.

Table A.4. Permittees with Ordinances Requiring On-Site Retention of Stormwater Volumes/Flows Greater than WQMP Requirements

<i>Permittee</i>	<i>Ordinance</i>	<i>Description</i>	<i>Storm Event (Required Design Capture Volume)</i>
Banning	Ordinance #1415	Requirement for all Priority Development Projects	100% retention of the 100-year, 3-hr event
Coachella	Ordinance #1014	Requirement for all Priority Development Projects	100% retention of the 100-year, 24-hr event
Desert Hot Springs	Ordinance No. 1997-03, Section 13.08.100	Applies to New Development and Redevelopment, with certain exceptions	100% retention of post-development runoff, based on the 100-year, 24 hour event

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68. Location of urbanized areas on alluvial fans comprised of pervious soils, low annual rainfall, low density of development, minimal vegetative cover, constructed flood control improvements, **Permittee** requirements for on-site retention, and **WQMP** requirements for **New Development** and **Redevelopment** all combine to limit potential impacts of **Urban Runoff** on the **Whitewater River Region** natural drainage system. The **WQMP** requires identification of **Hydrologic Conditions of Concern (HCOC)**. An **HCOC** may exist when a **New Development** or **Redevelopment** site's hydrologic regime is altered and results in significant impacts on downstream channels and, where they may exist, aquatic habitats. Currently, **New Development** and **Redevelopment** projects are required to perform this assessment and incorporate appropriate **BMPs** to the **MEP** to ensure existing hydrologic conditions are maintained.
69. **LID** techniques promote the reduction of impervious areas which may achieve multiple environmental and economic benefits. This **MS4 Permit** requires **Permittees** to continue to implement the per project measurable goal of addressing 100% of the **WQMP Treatment Control BMP** requirement through implementation of **Site Design/LID BMPs**.
70. Some **LID** concepts are not compatible with water efficient landscape ordinances adopted throughout the **Whitewater River Region**. Such ordinances include requirements for xeriscaping, and implementation of water budgets and desert tolerant landscape standards.
71. Certain **BMPs** implemented or required by **Permittees** for urban runoff management may create a habitat for vectors (e.g., mosquitoes and rodents) if not properly designed or maintained. Close collaboration and cooperation among the **Permittees**, local vector control agencies, **Regional Water Board** staff, and the California Department of Public Health is necessary to identify and implement appropriate vector control measures that minimize potential nuisances and public health impacts resulting from vector breeding.
72. This **MS4 Permit** requires the **Permittees** to review and approve covenants, conditions and restrictions (CC&Rs) or other mechanisms to ensure proper long-term operation and maintenance of post-construction **BMPs**.

Illicit Connection/Illegal Discharge (IC/ID)

73. This **MS4 Permit** requires the **Permittees** to continue to implement the **BMPs** listed in the approved **SWMP**, and to continue to effectively prohibit **IC/IDs** to the **MS4**. One of the major elements of the **SWMP** is a **Storm Water/Urban Runoff** Management and Discharge Control Ordinance. The **Permittees** with land use authority have adopted such an ordinance as well as ordinances addressing **Grading** and **Erosion** control (collectively, the "**Storm Water Ordinance**"). The purpose of each **Storm Water Ordinance** is to prohibit **Pollutant** discharges in the **MS4** and to regulate **IC/IDs** and **Non-Storm Water** discharges to the **MS4**.
74. The **Permittees** have implemented programs to control litter, trash, and other anthropogenic-sourced materials from **Urban Runoff**. In addition to municipal

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ordinances prohibiting littering, the **Permittees** will continue to implement these programs, and continue organizing and implementing other programs to reduce litter and **IC/IDs**, such as solid waste collection programs, **Household Hazardous Waste (HHW)** collections, **Hazardous Material** spill response, catch basin **Cleaning**, street sweeping, and recycling programs. These programs are intended to work together to address urban sources and reduce **Pollutants** in **Urban Runoff** to the **MEP**. This **MS4 Permit** includes requirements for the continued implementation of programs for litter, trash, and debris control.

75. This **MS4 Permit** requires the **Permittees** to continue to implement routine inspection and monitoring and reporting programs for **IC/IDs** to their **MS4** facilities. Due to the ephemeral nature of the **Whitewater River Region** during **Dry Weather** conditions, **IC/IDs** to **Receiving Waters** from **MS4** outfalls can be identified by field inspections. Therefore, this **MS4 permit** also requires, in part, that the **Permittees' Dry Weather** monitoring program focus on field identification and elimination of **IC/IDs**.
76. There are several local, regional and watershed-wide efforts underway to reduce **Dry Weather** discharges to **Whitewater River Region MS4** facilities, of which the **Permittees** are active participants. These efforts include, but are not limited to:
- The **County**, and all water suppliers within the **Whitewater River Region**, including **CVWD**, Desert Water Agency (DWA), Mission Springs Water District (MSWD), Coachella Water Authority (CWA), Indio Water Agency (IWA), and the City of Banning Water Utility, have adopted water efficient landscape ordinances which are either as stringent as, or are more stringent than, the State's model water efficient landscape ordinance.

Development projects within the **Whitewater River Region** must demonstrate compliance with the landscape standards described in respective ordinances to receive water service. The standards include, but are not limited to: site plan check/approval for compliance with water allowances and requirements for drought tolerant plants, water budget components which establish the amount of water that can be used on particular landscapes, and encouraging retention of **Stormwater** and prevention of runoff.

- **CVWD**, **CWA**, and the City of Banning Water Utility have implemented tiered water usage rates.
- **DWA**, **IWA** and the City of Banning Water Utility have implemented water waste prohibitions, conduct water use audits, and/or enforce against negligent water usage.
- **CVWD**, **CWA**, **DWA**, **MSWD**, and the **IWA** offer water conservation incentive programs, including offering rebates for: turf removal, sprinkler upgrades, and other water efficient irrigation measures.
- The **Coachella Valley Regional Water Management Group (CVRWVG)** is a collaborative effort led by the five water purveyors of the Coachella Valley

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(*CVWD*, CWA, DWA, IWA, and MSWD) to develop an Integrated Regional Water Management Plan (IRWMP) to address the water resources planning needs of the Valley; each of the Coachella Valley *Permittees* were planning partners in development of the IRWMP. The IRWMP, which was finalized in December 2010, enables the *CVRWVG* to apply for grants related to the IRWMP program led by the California Department of Water Resources.

In July 2012, the *CVRWVG* was awarded a \$4,000,000 Proposition 84 grant to use towards implementation of a Regional Water Conservation Program. Program features include: implementation of a water auditing program, workshops for landscape professionals, incentives for turf replacement, subsidies for irrigation clocks, increased public education and outreach, subsidization of residential sprinkler upgrades and a residential leak detection program. The term for this program will end on December 31, 2017.

Private Construction Activities

77. Construction activities may be a significant cause of *Receiving Water* impairment in California. *Sediment* runoff rates from construction sites exceed natural *Erosion* rates of undisturbed lands, causing siltation and impairment of *Receiving Waters*. However, siltation has not been identified by the *Regional Water Board* as a cause of *Receiving Water* impairment in the *Whitewater River Region*. In addition to requiring implementation of *BMPs*, an effective construction runoff program must include local plan review, permit conditions, field inspections, and enforcement.
78. One method to reduce *Potential Pollutants* in *Urban Runoff* is to incorporate *BMPs* as early in the planning phase of a project as possible. The implementation of *BMPs* is necessary to prevent *Erosion* and sedimentation in storm and non-storm *Urban Runoff* discharges.

Commercial/Industrial

79. Enforcement of local *Urban Runoff* related ordinances, permits, and plans are an essential component of the *SWMP*. Routine inspections provide an effective means by which *Permittees* can evaluate compliance. Inspections are especially important in areas with increased potential for *Pollutant* discharges, such as at industrial and construction sites.

Public Education/Outreach

80. Education is the foundation of the *SWMP*. Education of the *Permittee's* planning, inspection, and maintenance department staff is critical. The Public Education Program contained in the *SWMP* incorporates a well-developed approach to education and outreach. The program, entitled "Only Rain Down The Storm Drain *Pollution Prevention* Program", combines resources and efforts from the three *County MS4* permit programs to effectively communicate responsible *Urban Runoff* management. Public participation is necessary to ensure that all stakeholder interests, and a variety of creative solutions, are considered. Public

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participation is important in the development of a complete **Urban Runoff** management program. The **Permittees** propose to continue to emphasize the public participation component of this program.

Monitoring

81. An effective monitoring program characterizes **Urban Runoff** discharges, identifies problem areas, and determines the impact of **Urban Runoff** on **Receiving Waters**. However, due to the limited annual rainfall and the ephemeral nature of most **Receiving Waters** within the **Whitewater River Region**, collecting sufficient wet and dry weather data to characterize discharges and assess improvement or degradation in water quality due to **Urban Runoff** quality control program implementation is challenging at best. Under normal hydrologic conditions in the **Whitewater River Region**, there are limited flowing **Receiving Waters** impacted by **Urban Runoff**.
82. Although local climate and hydrology make consistent sample collection difficult, it is feasible to safely collect data from **MS4** outfalls and certain **Receiving Waters** during daylight hours of those wet weather events that do not result in flash flood warnings and/or watches. The **Permittees** should continue to take efforts to collect data for the ultimate purpose of characterizing **Urban Runoff** discharges, effectiveness of implemented **BMPs**, and determining the impacts of those discharges on **Receiving Waters**, where applicable and feasible.

Compliance with CEQA and Other Requirements

83. The **Permittees** will be required to comply with amendments to **WQS** or **WDRs**, which may be imposed by the **USEPA** or the State of California prior to the expiration of this **MS4 Permit**. This **MS4 Permit** may be reopened to include **WLAs** to address **Pollutants** in **Urban Runoff** causing or contributing to the impairments in **Receiving Waters** and/or other requirements developed and adopted by the **Regional Water Board**. The **MS4 Permit** also includes language requiring the **Permittees** to amend the **SWMP** to address **TMDL Basin Plan** Amendments, including incorporation of **WLA** requirements.
84. **CWC** Section 13243 provides that a Regional Water Board, in a water quality control plan or in **WDRs**, may specify certain conditions or areas where the discharge of **Waste** or certain types of **Waste** is not permitted.
85. The issuance of an **NPDES** permit for this discharge is exempt from the provisions of the California Environmental Quality Act (**CEQA**), Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, in accordance with **CWC** Section 13389.
86. The **Regional Water Board** has considered state and federal anti-degradation requirements pursuant to 40 CFR 131.12 and **State Board** Resolution No. 68-16. This **MS4 Permit** does not allow degradation of surface **Waters of the State**. Therefore, compliance with the **MS4 Permit** will satisfy these anti-degradation requirements.

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87. The **State Board** issued one state-wide general permit to address **Storm Water** discharges from construction activities: the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities 2009-0009-DWQ as amended by 2010-0014-DWQ (**NPDES** No. CAS000002) (**Construction General Permit**). Construction activities that qualify are required by federal regulations to obtain permit coverage under either an individual **NPDES** permit or the statewide **Construction General Permit** by filing a **Notice of Intent (NOI)** with the **State Board**. Therefore, separate coverage under the **Construction General Permit** is necessary for **Permittee** construction projects within or outside of the **Whitewater River Region**.
88. The **Regional Water Board** has notified the **Permittees** and other interested agencies and **Persons** of its intent to re-issue this **MS4 Permit** for discharges of **Urban Runoff** into the **Whitewater River Region**.

The **Regional Water Board**, in a public hearing, heard and considered all comments pertaining to this **MS4 Permit**. The **Regional Water Board** reserves the right to reopen this **MS4 Permit** after proper notice and an opportunity to be heard, is given to all concerned parties.

THEREFORE, IT IS HEREBY ORDERED that this **MS4 Permit** supersedes Order No. R7-2008-0001 except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the **CWC** (commencing with section 13000) and regulations adopted thereunder, and the provisions of the **CWA** and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this **MS4 Permit**. This action does not prevent the **Colorado River Basin Regional Water Board** from taking enforcement action for past violations of the previous **MS4 Permit**. If any part of this **MS4 Permit** is subject to a temporary stay of enforcement, unless otherwise specified, the Discharger shall comply with the analogous portions of the previous **MS4 Permit**, which shall remain in effect for all purposes during the pendency of the stay.

B. DISCHARGE PROHIBITIONS

1. The discharge of **Urban Runoff** from the **Permittees' MS4** to **Waters of the United States** containing **Pollutants**, which have not been reduced to the **MEP**, is prohibited.
2. The **Permittees** shall continue to prohibit **IC/IDs** to the **MS4** through their **Storm Water Ordinances**.
3. The following discharge prohibitions are applicable to any **Person**, as defined by Section 13050(c) of the **CWC**, who is a citizen, domiciliary, or political agency or entity of California and whose activities in California could affect the quality of **Waters of the State** within the boundaries of the Colorado River Basin Region:
 - a. 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 **CWC** Section 13050, except in compliance with the terms and conditions of Section D, below.
 - b. The discharge of **Pollutants** or dredged or fill material to **Waters of the United States**, except as authorized by an **NPDES** permit or a dredged or fill material permit subject to the exemption described in **CWC** Section 13376.
 - c. Any discharge to the **MS4** that is not composed entirely of "**Storm Water**" is prohibited, unless authorized by Section C. **ALLOWABLE NON-STORM WATER DISCHARGES**.
 - d. The unauthorized discharge of treated or untreated sewage to **Waters of the State** or to the **MS4**.
 - e. The discharge of oil, gasoline, diesel fuel, or any other petroleum derivative or any toxic chemical or **Hazardous Waste** into the **MS4**.

B. DISCHARGE PROHIBITIONS

C. ALLOWABLE NON-STORM WATER DISCHARGES

1. Each **Permittee** shall effectively prohibit all types of **Non-Storm Water** discharges into the **MS4** unless such discharges are authorized in accordance with Item No. 2 of this Section.
2. The following discharges are not prohibited, unless identified by the **Permittees** as a significant source of **Pollutants** to the **Receiving Waters**:
 - a. Discharges covered by **NPDES** permits or written clearances issued by the **Regional Water Board** or **State Board**;
 - b. Air conditioning condensation
 - c. Potable water line flushing and other potable water sources;
 - d. Passive foundation drains;
 - e. Passive footing drains;
 - f. Water from crawl space pumps;
 - g. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters;
 - h. Dechlorinated swimming pool discharges;
 - i. Non-commercial vehicle washing; (e.g. residential car washing (excluding engine degreasing) and car washing fundraisers by non-profit organizations);
 - j. Diverted stream flows;
 - k. Rising ground waters and natural springs;
 - l. Groundwater infiltration as defined in 40 CFR 35.2005 (20) and uncontaminated pumped ground water;
 - m. Flows from riparian habitats and wetlands;
 - n. Street wash water;
 - o. Emergency water flows (i.e., firefighting flows and other flows necessary for the protection of life and property) do not require **BMPs** and need not be prohibited. However, appropriate **BMPs** shall be considered where practicable when not interfering with emergency public health and safety issues;
 - p. Waters not otherwise containing **Wastes**, as defined in **CWC** Section 13050 (d); and
 - q. Other types of discharges identified and recommended by the **Permittees** and approved by the **Regional Water Board**.
3. For purposes of this **MS4 Permit**, a discharge may include **Storm Water** and other types of discharges as indicated in Section C.2. If the **Permittee** identifies an allowable discharge category from Section C.2 that causes or contributes to an

C. ALLOWABLE NON-STORM WATER DISCHARGES

exceedance of **WQS** or is a significant contributor of **Pollutants** to **Waters of the United States**, a **Permittee** shall either:

Prohibit the discharge category from entering its **MS4** or ensure that appropriate **BMPs** are implemented to the **MEP** to reduce or eliminate **Pollutants** resulting from the discharge. The **Permittees** shall also provide a report to the **Regional Water Board** per Section D. **RECEIVING WATER LIMITATIONS**, Item No. 2.

C. ALLOWABLE **NON-STORM WATER** DISCHARGES

D. RECEIVING WATER LIMITATIONS

1. The **SWMP** and its components shall be updated to achieve compliance with **Receiving Water Limitations** associated with discharges of **Urban Runoff**. It is expected that compliance with **Receiving Water Limitations** will be achieved through an iterative process and the application of **BMPs** to the **MEP**.
2. A **Permittee** shall be considered in compliance with the Discharge Prohibitions, Allowable **Non-Storm Water** Discharges, and **Receiving Water Limitations**, so long as it is timely implementing control measures and other actions to reduce **Pollutants** in the discharges in accordance with the **SWMP** and other requirements of this **MS4 Permit**, including any modifications. If exceedance(s) of **WQS** persist, notwithstanding implementation of the **SWMP** and other requirements of this **MS4 Permit**, a **Permittee** shall continue to be considered in compliance with Discharge Prohibitions, Allowable **Non-Storm Water** Discharges, and **Receiving Water Limitations** by complying with the following procedure:
 - a. Upon a determination by the **Permittee** or **Regional Water Board** that discharges of **Urban Runoff** from the **MS4** are causing or exceeding or contributing to an exceedance of an applicable **WQS**, the **Permittee** shall promptly notify **Regional Water Board** staff within two (2) working days by telephone (760.346.7491) or e-mail notice and thereafter submit within 30 days a report to the **Regional Water Board** that describes **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 **WQSs**. The report shall include an implementation schedule. The **Regional Water Board** may require modifications to the report;
 - b. Alternatively, if the exceedances of the applicable **WQSs** are due to discharges to the **MS4** from activities or areas not under the jurisdiction of the **Permittee**, the **Permittee** shall promptly notify **Regional Water Board** staff within two (2) working days by telephone (760.346.7491) or e-mail notice and thereafter shall provide documentation of these discharges and submit a report within 30 days to the **Regional Water Board**. The **Permittee** shall trace the source of the discharge upstream by contacting the appropriate neighboring **MS4** facility that does have jurisdiction to locate the source of the **Pollution**;
 - c. Submit any modifications to the above reports (either D.2.a. or D.2b., as appropriate) within 30 days when required by the **Regional Water Board**;
 - d. Within 30 days following approval by the **Regional Water Board** of the report described above in Section D., 2.a., the **Permittee** shall revise the **SWMP** and monitoring program to incorporate the approved modified **BMPs** that will be implemented, the implementation schedule, and any additional monitoring required; and
 - e. Implement the revised **SWMP** and monitoring program in accordance with the approved implementation schedule.

D. RECEIVING WATER LIMITATIONS

As long as a **Permittee** has complied with the procedures set forth above and is implementing the revised **SWMP**, the **Permittee** does not have to repeat the same procedure for continuing or recurring exceedances of the same **Receiving Water Limitations**, unless directed in writing by the **Regional Water Board** or **Executive Officer** to develop and implement additional **BMPs**, including **Source** and **Treatment Controls BMPs**.

D. **RECEIVING WATER LIMITATIONS**

E. SPECIFIC PERMITTEE REQUIREMENTS

1. The **Permittees** shall revise the **SWMP** to address the requirements found within this **MS4 Permit**. The revised **SWMP** shall be submitted for approval by the **Executive Officer** within 12 months of adoption of this **MS4 Permit**. Until such time that the **Executive Officer** provides approval of the revised **SWMP**, the **Permittees** shall continue to implement the requirements described in Order No. R7-2008-0011 and the 2011 **SWMP**. Upon approval by the **Executive Officer**, the **Permittees** shall be required to implement the revised **SWMP**, and the requirements of this **MS4 Permit**.
2. The **Principal Permittees** shall:
 - a. Coordinate **MS4 Permit** compliance activities;
 - b. Establish a uniform data submittal format for use by all **Permittees**;
 - c. Prepare the **Annual Report**;
 - d. Forward information received from the **Regional Water Board** to the **Permittees**;
 - e. Implement **MS4 Permit** activities of common interest;
 - f. Inform **Permittees** on **USEPA** and **Regional Water Board** regulations pertaining to the **MS4**;
 - g. Convene all **Desert Task Force** meetings that are held at least quarterly and consist of one or more representatives from each **Permittee**. The **Desert Task Force** shall direct the maintenance and update of the **SWMP** and coordinate the implementation of the overall **Urban Runoff** program, as described in the **ROWD**; and
 - h. Maintain and update the **Whitewater River Region** map.
3. Each **Permittee** shall:
 - a. Comply with the requirements of this **MS4 Permit** within its jurisdiction, and to the extent of its authority;
 - b. Provide certification for all reports and other information requested by the **Regional Water Board** as specified in Section I.9 of this **MS4 Permit**;
 - c. Annually review the **Whitewater River Region** map to ensure that it encompasses urbanized areas within the jurisdiction of the **Permittee**²⁹. If additional urbanized areas (or non-urbanized areas are incorrectly identified as urbanized) within the jurisdiction of the **Permittee** are identified, the **Permittee** shall submit an amendment to the **Whitewater River Region** map to the **Principal Permittees** as part of the **Annual Report**;

²⁹ The District and CVWD do not govern as municipal authorities over any land areas; therefore, this provision is not applicable to them.

E. SPECIFIC PERMITTEE REQUIREMENTS

- d. Prepare and provide documents required by the **MS4 Permit** to the **Principal Permittees** in a timely manner;
 - e. Implement the **Whitewater River Region SWMP** consistent with this **MS4 Permit** to:
 - i. Reduce **Potential Pollutants** in **Urban Runoff** from municipal, commercial, industrial, and residential areas to the **MEP**;
 - ii. Reduce **Potential Pollutants** in **Urban Runoff** from land development and construction sites to the **MEP** through the use of **Structural** and/or **Non-Structural BMPs**;
 - iii. Reduce **Potential Pollutants** in **Urban Runoff** from **Permittee's** maintenance activities to the **MEP**;
 - iv. Eliminate **IC/IDs** to the **MEP**;
 - v. Encourage spill prevention and containment as well as provide appropriate spill response plan for **Permittees'** maintenance facilities to the **MEP**;
 - vi. Increase public awareness to the **MEP**;
 - vii. Continue to provide **MS4 Permit** compliance related training for **Permittee's** staff to the **MEP**; and
 - viii. Control increases in **Urban Runoff** flows within the **Permittees'** jurisdictional boundaries to the **MEP**, so as not to potentially cause **Erosion** or sedimentation problems downstream.
 - f. Designate at least one representative to the **Desert Task Force** as described in Section E.2.g. The **Principal Permittees** shall be notified immediately, of changes to the designated representative. The designated representative shall attend the **Desert Task Force** meetings.
4. Each **Permittee** shall establish and maintain adequate legal authority through statute, ordinance, or series of contracts, which authorizes or enables the **Permittee** to implement and enforce, at a minimum, each of the following requirements contained in 40 CFR Section 122.26(d)(2)(i)(A-F):
- a. Control through ordinance, permit, contract, order or similar means, the contribution of **Pollutants** to the **MS4** by **Urban Runoff** associated with industrial activity and the quality of **Urban Runoff** discharged from sites of industrial activity;
 - b. Prohibit through ordinance, order or similar means, **IDs** to the **MS4**, including, but not limited to, discharges:
 - i. Of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
 - ii. Resulting from the cleaning, repair, or maintenance of any type of equipment or machinery including motor vehicles, cement-related equipment, and port-a-potty servicing:

E. SPECIFIC **PERMITTEE** REQUIREMENTS

- iii. Of wash water from mobile operations such as oily or greasy discharges from mobile automobile washing, and/or discharges from steam cleaning, power washing, and carpet cleaning, etc.;
 - iv. Of runoff from material storage areas containing chemicals, fuels, grease, oil, or other **Hazardous Materials**; and
 - v. Of food-related **Wastes** (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).
- c. Control through ordinance, order or similar means the discharge to the **MS4** of spills, dumping or disposal of materials other than **Urban Runoff**.
 - d. Control through interagency agreements among **Permittees** the contribution of **Pollutants** from one portion of the **MS4** to another portion of the **MS4**;
 - e. Require compliance with conditions in **Permittee** ordinances, permits, contracts or orders consistent with the Enforcement and Compliance Strategy described in Section 1.7 of the **SWMP**;
 - f. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance with **MS4 Permit** conditions, including the prohibition on **IDs** to the **MS4**, and
 - g. Require that **Urban Runoff** collection, transport, and storage facilities shall be in good working condition at all times to effectuate compliance with this **MS4 Permit**.

Because the **RCFC&WCD** and **CVWD** are not general purpose local government entities and only operate facilities that may convey **Urban Runoff**, these **Permittees** lack the authority to adopt and enforce ordinances to regulate development and other authorities and abilities of general purpose government entities. The **RCFC&WCD** and **CVWD** shall therefore comply with this Provision as well as other aspects of this **MS4 Permit** only to the extent of their statutory authority and within the constraints imposed by the California Constitution.

- 5. Each **Permittee** shall review its ordinances, contracts and/or agreements to ensure that they continue to have adequate authority to implement and enforce applicable provisions of this **MS4 Permit**. Each **Permittee** shall submit a statement (signed by legal counsel) certifying legal authority to implement and enforce the applicable provisions of this **MS4 Permit** as part of its Fiscal Year 2014-2015 **Annual Report**. If a **Permittee** determines that such legal authority does not exist, that **Permittee** shall provide an implementation schedule identifying the legal changes necessary to adopt a new ordinance, amend an existing ordinance, or create and/or amend any agreement(s) that would enable the **Permittee** to obtain the requisite legal authority to fully implement and enforce the applicable provisions of this **MS4 Permit**. The implementation schedule shall be provided to **Regional Water Board** staff for its approval as part of the Fiscal Year 2014-2015 **Annual Report**. Upon the final date of the approved implementation schedule, the **Permittee** shall submit a statement (signed by legal counsel) certifying legal authority to implement and enforce the applicable

E. SPECIFIC **PERMITTEE** REQUIREMENTS

provisions of this **MS4 Permit**. If a **Permittee** determines that legal authority does not exist or is insufficient at any time after submittal of the Fiscal Year 2014-2015 **Annual Report**, that **Permittee** shall implement appropriate measures to ensure that it has obtained adequate legal authority, and submit the required statement certifying legal authority as part of its **Annual Report**.

6. **Permittees** that have entered into land use agreements with Tribal entities, as described in Finding #17 of this **MS4 Permit**, shall periodically inform the **Regional Water Board** on implementation of the **SWMP** on Tribal Lands.
7. **Permittee** Construction Activities:

The **Permittees** will be required to file a **Notice of Intent (NOI)** for coverage under the **Construction General Permit** for **Permittee** construction projects which create a **Land Disturbance** greater than or equal to one acre, or less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

The Construction General Permit defines routine maintenance activities that are exempt from coverage under the **Construction General Permit**. Specific maintenance activities, which include **BMPs** implemented as part of a **Permittee's** Municipal Facility/Activities **Pollution Prevention** Plan or model municipal maintenance **BMP** fact sheets, can be considered as meeting "routine maintenance activities", as defined in the **Construction General Permit**.

E. SPECIFIC **PERMITTEE** REQUIREMENTS

F. BEST MANAGEMENT PRACTICES

1. Each **Permittee** shall implement the following programs and **BMPs** to the **MEP** as described in the **SWMP** and this **MS4 Permit**. These programs and **BMPs** include the following:

- a. **IC/ID, Litter, Debris, and Trash Control Program:**

- i. The **Permittees** shall continue to reduce the discharge of **Pollutants**, including trash and debris, from their respective **MS4s** to **Receiving Waters** to the **MEP**.
- ii. The **Permittees** shall document the observations of field personnel of unauthorized dumping or spills so that the information can be used to help locate the source of **Pollutants**. The **Permittees** shall continue to utilize standardized **IC/ID** reporting forms to document, track and report **IC/ID** incidents.
- iii. The **Permittees** shall maintain a database of **IC/ID** investigations. The database shall track case specifics, including description, cause, duration, the outcome of the case (spill/connection was terminated and cleaned up, source owner/operator educational visit, warning letter, referral to an enforcement agency, etc.), and the enforcement actions issued/taken (e.g., notice of non-compliance, notice of violation and order to comply, referral to District Attorney for prosecution).
- iv. The **Permittees** shall continue to provide, collect, and maintain litter receptacles in strategic public areas and during public events.
- v. The **Permittees** shall assess and modify, if necessary, existing field programs to detect and prevent dumping or routine discharge of **Pollutants** into **MS4** facilities.
- vi. The **Permittees** shall continue to implement and enforce leash laws and other pet laws (i.e., pet waste clean-up, no pets in public areas) in selected public-use areas.

Field Screening/System Surveillance

- vii. The **Permittees** shall continue to implement routine field inspections for their **MS4** facilities, and the **Dry Weather** monitoring and reporting program (as detailed in Section L.10.A. of this **MS4 Permit**), to assist with identification and elimination of **IC/IDs**.
- viii. **Permittees** may utilize existing **MS4** maintenance programs, business/construction inspection programs and/or complaint reports to facilitate field screening. **Permittee** field staff shall utilize visual or olfactory indicators for determining **IC/IDs** during field screening.
- ix. If routine field inspections or the **Dry Weather** monitoring and reporting program indicate **IC/IDs**, they shall be investigated and

F. BEST MANAGEMENT PRACTICES

eliminated, or regulated by the **Regional Water Board**, as soon as possible after detection.

- x. **IC/ID** elimination measures may include an escalating series of enforcement actions for those **IC/IDs** that do not endanger public health or the environment. **IC/IDs** that endanger public health or the environment (as defined in the Reporting Section F.1.a.xi.2. below) shall be eliminated as soon as possible. A summary of elimination measures taken shall be maintained by the **Permittees** as part of the **IC/ID** database.

Reporting

- xi. The **Permittees** shall immediately (within 24 hours of receipt of notice) initiate an investigation of all spills, leaks, and/or **IC/IDs** to the **MS4** upon being put on notice by staff or a third party. Based upon their assessment and as specified below, the **Permittees** with jurisdiction for the spill shall report all discharges that endanger human health or the environment as follows:
 - 1. By phone to the California Emergency Management Agency ("**Cal EMA**") at (800-852-7550) and to the **Regional Water Board** at (760-346-7491).
 - 2. At a minimum, any sewage spill above 1,000 gallons or that could impact water contact recreation, any oil spill that could impact wildlife, any **Hazardous Material** spill where residents are evacuated, any spill of reportable quantities of **Hazardous Waste** (as defined in 40 CFR Part 117 and 40 CFR Part 302), or any other spill or discharge that is reportable to **Cal EMA** (collectively, an "**Emergency Situation**") shall be reported within twenty four (24) hours of becoming aware of the circumstances. Additional reporting requirements shall be per Section I. REPORTING REQUIREMENTS, Item No. 6.a.
- xii. Other spill incidents, including any unauthorized discharge, that are not incidents reportable to the **Cal EMA** shall be documented; documentation shall include a description of the spill, its cause(s), duration, actual or anticipated time for achieving compliance, and the enforcement steps that the **Permittee** has taken, or intends to take. These incidents shall be included in the **IC/ID** database, and be available upon request;
- xiii. **Permittees** with jurisdiction over incidents described by Section F.1.a.xi. shall submit a report for each incident to the **Executive Officer** as an attachment to their **Annual Report**, if not already done by another responsible agency, per Section F.1.a.xv, below. This report shall contain a description of the non-compliance, its causes, duration, and the actual or anticipated time for the violator to achieve compliance. The report shall include the enforcement steps that the **Permittee** has taken, or intends to take;

F. BEST MANAGEMENT PRACTICES

- xiv. The **Permittees** may propose an alternative reporting program, including reportable incidents and quantities, jointly with other agencies such as the **County** Department of Environmental Health (**DEH**), subject to approval by the **Executive Officer**.
- xv. In cases where an incident is reportable to **Cal EMA** and/or **Executive Officer** and that incident has been reported to **Cal EMA** and/or **Executive Officer**, as applicable, by another responsible agency, the **Permittee** with jurisdiction is not required to duplicate the report.

Incident Response, Investigation, and Clean Up

- xvi. Continue to support the existing **Hazardous Materials** incident response programs implemented jointly by the **County DEH** and the **County** Fire Department **HAZMAT** Team;

Program Data Tracking

- xvii. The **Permittees** shall maintain the following records:
 - 1. **IC/ID** reporting forms used to document, track and report **IC/ID** incidents;
 - 2. An up-to-date **IC/ID** database, including information specified in Attachment B of this **MS4 Permit**; and
 - 3. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access to similar trackable data, such a system may be used in lieu of the **IC/ID** database requirements in Attachment B of this **MS4 Permit**.

Annual Reporting

- xviii. In its **Annual Report**, each **Permittee** shall include the following information:
 - 1. Total number of **IC/ID** complaints received during the reporting year;
 - 2. Total number of **IC/ID** complaints requiring response during the reporting year;
 - 3. Total number and type of enforcement actions resulting from **IC/ID** complaints during the reporting year;
 - 4. Report(s) for incident(s) reportable to **Cal EMA**, as required in Section F.1.a.xiii. of this **MS4 Permit**;
 - 5. A narrative summary of **IC/ID** program accomplishments or issues encountered during the reporting year;
 - 6. A summary of trash and debris removal activities conducted; and

F. BEST MANAGEMENT PRACTICES

7. A summary of **MS4** facilities inspected (by **MS4** facility type) during the reporting year pursuant to Sections F.1.a.vii through F.1.a.ix. (above).
- xix. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access pursuant to Section F.1.a.xvii.3 (above), the **Annual Report** requirements listed in section F.1.a.xviii (above) are waived.

Annual Program Evaluation and Assessment

- xx. Each **Permittee** shall evaluate in its **Annual Report** whether the **IC/ID** program goals listed below have been achieved:
 1. Reduce the discharge of trash and debris from respective **MS4s** to **Receiving Waters**;
 2. Confirm that **IC/ID** reports are reviewed and responded to in a timely manner;
 3. Ensure that confirmed **IC/ID** events are expeditiously eliminated.
- xxi. If a **Permittee** finds that the above stated program goals have not been achieved, that **Permittee** shall review its applicable activities and **BMPs** to identify any modifications which may be needed to improve **IC/ID** program effectiveness, as necessary to comply with this **MS4 Permit**. A work plan and schedule to address program modifications shall be developed and implemented, and provided and/or updated with the applicable **Annual Report**.

b. Commercial/Industrial Facilities Program

Source Identification, Inspection and Enforcement

- i. The **Permittees** shall continue to coordinate with **County DEH**, **Regional Water Board** staff, and others as necessary to maintain a commercial and industrial facility database;
- ii. The **Permittees** shall maintain an implementation schedule for conducting inspections of the targeted list of facilities listed in the database, as detailed in Section 3.1 of the **SWMP**;
- iii. The existing Compliance/Assistance Program (**CAP**) described in Section 3 of the **SWMP** meets the intent of this section; however, individual **Permittees** may propose an alternative inspection program for **Regional Water Board** approval as part of their **Annual Reports**;
- iv. Each **Permittee** shall continue to enforce its ordinances, including its **Storm Water Ordinance**, at industrial and commercial facilities as necessary to maintain compliance with this **MS4 Permit**. Where **CAP** Industrial/Commercial surveys indicate that a facility is out of compliance with a **Permittee's Storm Water Ordinance**, **Permittee** staff shall perform a re-inspection. Sanctions for non-compliance may include: verbal or written warnings, issuance of notices of violation or

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non-compliance, obtaining an administrative compliance, stop work, or cease and desist order, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor);

- v. Each **Permittee** shall implement and enforce its ordinances that require all new industrial facilities subject to the General Industrial Activities **Storm Water Permit (General Industrial Permit)** to show proof of compliance (such as a waste discharge identification (**WDID**) number from submittal of a **NOI**) prior to: 1) issuance of a business license (applicable only to those **Permittees** which require business licenses) or 2) issuance of a certificate of occupancy for **New Development**;
- vi. Upon referral of an industrial facility to **Regional Water Board** staff for failure to obtain coverage under the **General Industrial Permit**, failure to keep a **SWPPP** at the industrial facility, or an observed act or omission that suggests failure to comply with either, the **Permittee** will take no further action at the industrial facility with regard to securing compliance with the **General Industrial Permit**. It is understood by the **Permittees** and **Regional Water Board** staff that this will ensure that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the **General Industrial Permit**. Each **Permittee** shall take appropriate actions to bring an industrial facility into compliance with its local ordinances, rules, regulations, and the Water Quality Management Plan (**WQMP**), where applicable;

Program Data Tracking

- vii. The **Permittees** shall maintain the following records:
 1. An up-to-date commercial and industrial facility database, which includes the categories of facilities named in Section 3.4 of the **SWMP**, and information specified in Attachment B of this **MS4 Permit**; and
 2. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access to similar trackable data, such a system may be used in lieu of the commercial and industrial facility database requirements in Attachment B of this **MS4 Permit**.

Annual Reporting

- viii. In its **Annual Report**, each **Permittee** shall include the following information:
 1. Total number of commercial and industrial facilities inspected during the reporting year;
 2. Total number of commercial and industrial facilities requiring re-inspection during the reporting year;

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3. Total number and type of enforcement actions issued to commercial and/or industrial facilities during the reporting year.
- ix. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access pursuant to Section F.1.b.vii.2. (above), the **Annual Report** requirements listed in Section F.1.b.viii (above) are waived.

Annual Program Evaluation and Assessment

- x. Each **Permittee** shall evaluate in its **Annual Report** whether the following commercial and industrial facilities program goals have been achieved:
1. Maintain an updated database of commercial and industrial facilities;
 2. Confirm that industrial and commercial facilities described in Section F.1.b.ii (above) have implemented **BMPs** that comply with **Permittee Stormwater Ordinances**; and
 3. Implement enforcement measures as necessary to reduce the occurrence and recurrence of violations of **Permittee Stormwater Ordinances** from industrial and commercial facilities.
- xi. If a **Permittee** finds that the above stated program goals have not been achieved, that **Permittee** shall review its applicable activities and **BMPs** to identify any modifications which may be needed to improve commercial/industrial program effectiveness as necessary to comply with this **MS4 Permit**. A work plan and schedule to address program modifications shall be developed and implemented, and will be provided and/or updated with the applicable **Annual Report**.

c. New Development/Redevelopment Program

Permittees shall:

- i. Make information available to architects, engineers, building department personnel, and local government officials on water quality problems associated with **Urban Runoff** and the requirements for meeting **NPDES** regulatory requirements and program goals for properly managing the quality of **Urban Runoff**.
Provide information on upcoming training workshops and distribute educational materials as appropriate;
- ii. The **Permittees** shall continue to implement the existing development and approval review procedures outlined in the **SWMP**. The **Permittees** must:
 1. Implement and enforce a program to address **Urban Runoff** from **New Development** and **Redevelopment Projects** that disturb areas equal to or greater than 1 acre, including projects less than 1 acre that are part of a larger common plan of development or sale, that discharge into the **MS4** (herein

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- referred to as **Other Development Projects**) by ensuring that **Source Control BMPs** specified in Item No. F.1.c.v.3 of this Section (below) are in place that would prevent or minimize water quality impacts to the **MEP**;
2. As necessary, revise the **Whitewater BMP Design Manual**, which includes a combination of **Structural** and/or **Non-Structural BMPs**, to reflect updated **BMP** technologies that the **Permittees** determine to be appropriate and feasible for the **Whitewater River Region**;
 3. Use an ordinance or other regulatory mechanism to address post-construction **Urban Runoff** from **New Development** and **Redevelopment Projects** to the extent allowable under state or local law. The requirements must include the design standards specified in Item No. F.1.c.v, of this Section (below) or a functionally equivalent program that is acceptable to the **Regional Water Board**; and
 4. Require mechanisms to ensure adequate long-term operation and maintenance of post-construction **BMPs** on **Priority Development Project** sites.
- iii. All discretionary **New Development** and **Redevelopment Projects** that fall into one of the following categories (herein referred to as **Priority Development Projects**) are subject to the **WQMP** design standards specified in Item No. F.1.c.v. of this Section (below):
1. Single-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is twenty-five percent (25%) or greater, including single-family hillside residences that create 10,000 square feet of impervious area where the natural slope is ten percent (10%) or greater where erosive soil conditions are known;
 2. 100,000 square foot commercial and industrial developments;
 3. Automotive repair shops (with Standard Industrial Classification ("**SIC**") codes 5013, 7532, 7533, 7534, 7537, 7438, and 7539);
 4. Retail gasoline outlets disturbing greater than 5,000 square feet;
 5. Restaurants disturbing greater than 5,000 square feet;
 6. Home subdivisions with 10 or more housing units; and
 7. Parking Lots 5,000 square feet or larger in size, or with 25 or more parking spaces and potentially exposed to **Urban Runoff**.
- iv. Where a **Priority Redevelopment Project** replaces less than 50% of the impervious surfaces on an existing developed site, and the site

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was not previously subject to **Priority Development Project** requirements, the **WQMP** design standards specified in Section F.1.c.v. (below) apply only to the addition or replacement, and not to the entire developed site. Where a **Priority Redevelopment Project** replaces 50% or more of the impervious surfaces on an existing developed site, the **WQMP** design standards specified in Section F.1.c.v. (below) apply to the entire development.

v. **WQMP** Design Standards. Discretionary development specified in Section F.1.c.iii. (above) must implement the following **BMPs**:

1. **Peak-Urban Runoff** Discharge Rates.

Post development peak **Urban Runoff** discharge rates shall not exceed pre-development rates for developments where the increased peak **Urban Runoff** discharge rate will result in increased potential for downstream **Erosion**. The **Permittees** shall continue implementation of the existing design standard for Peak-**Urban Runoff** Discharge Rate control as specified in the **WQMP**.

2. **Site Design BMPs**.

Unless infeasible, the following **Site Design BMPs** are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:

- a. Minimize **Urban Runoff**, minimize impervious footprint, and conserve natural areas,
- b. Minimize directly connected impervious area; and
- c. The **Permittees** shall continue to implement the **Treatment Control BMP** requirement (specified in Section F.1.c.v.4. below) through implementation of **Site Design BMPs**, as specified in the **WQMP**, and Section F.1.c.v.5.b. below.

3. **Source Control BMPs**.

The **Permittees** shall address **Pollutants** in **Urban Runoff** through the implementation of **Source Control BMPs**. **Urban Runoff** from a site has the potential to contribute oil and grease, suspended solids, metal, gasoline, pesticides, and pathogens to the **MS4**. **Priority Development Projects** and **Other Development Projects** must be designed so as to minimize, to the **MEP**, the introduction of **Pollutants** generated from on-site runoff of directly connected impervious areas to the **MS4** as approved by the building official. The **Permittees** shall require the following **Source Control BMPs**:

- a. Protect slopes and channels from eroding;

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- b. Include storm drain inlet stenciling and signage;
- c. Include properly designed outdoor material storage areas; and
- d. Include properly designed trash storage areas.

4. **Treatment Control BMPs.**

The **WQMP** shall require **Treatment Control BMPs** for all **Priority Development Projects**. All **Treatment Control BMPs** shall be located so as to infiltrate, filter or treat the required runoff volume or flow prior to its discharge to any **Receiving Water**. Multiple **Priority Development Projects** may share **Treatment Control BMPs** as long as construction of any shared **Treatment Control BMP** is completed prior to the use of any development project from which the **Treatment Control BMP** will receive **Urban Runoff**, and prior to discharge to a **Receiving Water**. **Treatment Control BMPs** shall be designed to address **Pollutants of Concern**. **Pollutants of Concern** consist of any **Pollutants** generated by the **Priority Development**, including **Pollutants** that are listed under **CWA** Section 303(d) for the **Receiving Water** into which the **Priority Development** would discharge, **Pollutants** associated with the land use type of the **Priority Development** and legacy **Pollutants** associated with past use of the **Priority Development** site that may be exposed to **Urban Runoff**. **Treatment Control BMPs** shall be collectively sized to comply with the following numeric sizing criteria:

- a. Volumetric **Treatment Control BMP** design criteria.
 - i. The 85th percentile 24-hour event determined as the maximized capture **Storm Water** volume for the project area, from the formula recommended in Urban Runoff Quality Management, Water Environment Federation Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 - ii. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80% or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/Commercial (2003); or
 - iii. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in **Pollutant** loads achieved by the 85th percentile 24-hour runoff event; or

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- iv. An alternative treatment design criteria, appropriate for the unique arid hydrologic conditions of the **Whitewater River Region** that has been proposed by the **Permittees** and is approved by the **Executive Officer**.
- b. Flow-Based **BMP** design criteria
 - i. 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
 - ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of the storm event), as determined from the local historical rainfall record, multiplied by a factor of two; or
 - iii. The maximum flow rate of runoff for each hour of a storm event, as determined from the local historical rainfall record that achieves approximately the same reduction in **Pollutant** loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two; or
 - iv. An alternative treatment design criteria, appropriate for the unique arid hydrologic conditions of the **Whitewater River Region** proposed by the **Permittees** and approved by the **Executive Officer**.

5. **Treatment Control** Alternatives and Waivers.

- a. Projects that retain and infiltrate 100% of the rainfall conditions specified in Section F.1.c.v.4 are deemed to comply with the **Treatment Control BMP** requirements of that Section.
- b. The **Permittees** have developed, and shall continue to implement a **Site Design BMP** substitution program, which has been incorporated into the **WQMP**, and allows the **Permittees** to substitute implementation of **Low Impact Development (LID) Site Design BMPs** for implementation of some or all **Treatment Control BMPs**. The **Site Design BMP** substitution program utilizes specific design criteria for each **LID Site Design BMP** to be utilized by the **Site Design BMP** substitution program.
- c. A **Permittee** may provide for a **Priority Development Project** to be waived from the requirement of implementing **Treatment Control BMPs**. All waivers,

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along with documentation justifying the issuance of a waiver, must be submitted to the **Regional Water Board** staff in writing within thirty (30) calendar days. If the **Executive Officer** determines that waivers are being inappropriately granted, this **MS4 Permit** may be reopened to modify these waiver conditions. Waivers may be granted:

- i. If infeasibility can be established. A waiver of infeasibility shall only be granted by a **Permittee** when all available **Treatment Control BMPs** have been considered and rejected as technically infeasible and/or the cost of implementing the **Treatment Control BMP** greatly outweighs the **Pollution** control benefit; or
- ii. For those portions of the **Whitewater River Region** that will not result in a discharge to **Receiving Waters** under the rainfall conditions specified in Section F.1.c.v.4.

6. Limitation of Use of Infiltration **BMPs**.

a. Infiltration based **Treatment Control BMPs** shall:

- i. Be located at least 50 feet horizontally from water supply wells, unless it can be shown that well construction and site geology will provide adequate protection for the domestic water well in which case the minimum distance will be provided on a case by case basis; and
- ii. Not cause a **Nuisance**, including odor, vectors or **Pollution** as defined by **CWC** Section 13050.

- vi. The **Permittees** shall revise the 2009 **WQMP** to address the requirements described within Section F.1.c. (above); the revised **WQMP** shall be submitted for approval by the **Executive Officer** within 12 months of adoption of this **MS4 Permit**. Until such time that the **Executive Officer** provides approval of the revised **WQMP**, the **Permittees** shall continue to implement the **Priority Development Project** requirements described in Order No. R7-2008-0011 and the 2009 **WQMP**. Upon approval by the **Executive Officer**, the **Permittees** shall be required to implement the revised **WQMP**. **Priority Development Projects** submitted after the approval date of the revised **WQMP** shall be subject to the requirements of the revised **WQMP**, and the **Priority Development Project** requirements of this **MS4 Permit**.

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Program Data Tracking

- vii. The **Permittees** shall keep the following records:
1. An up-to-date **WQMP** tracking database, including information specified in Attachment B of this **MS4 Permit**;
 2. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access to similar trackable data, such a system may be used in lieu of the **WQMP** tracking database requirements in Attachment B of this **MS4 Permit**.

Annual Reporting

- viii. In its **Annual Report**, each **Permittee** shall include the following information:
1. Number of projects conditioned for **WQMPs** during the reporting year;
 2. A summary of **Other Development Projects** conditioned to require implementation of **Source Control BMPs** during the reporting year;
 3. Percent of projects requiring **WQMPs** which met the goal of achieving the **Treatment Control BMP** requirement through the use of **LID Site Design BMPs** during the reporting year.
- ix. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access pursuant to Section F.1.c.vi.2. (above), the **Annual Report** requirements listed in Section F.1.c.vii. (above) are waived.

Annual Program Evaluation and Assessment

- x. Each **Permittee** shall evaluate in its **Annual Report** whether the following **New Development/Redevelopment** program goals have been achieved:
1. Confirm that **WQMPs** are in place at **Priority Development/Redevelopment Projects**, to prevent or minimize water quality impacts to the **MEP**;
 2. Encourage the use of **LID Site Design BMPs** to address the **Treatment Control BMP** requirement for **Priority Development/Redevelopment Projects**; and
 3. Confirm that **Other Development Projects** are conditioned to require implementation of **Source Control BMPs**.
- xi. If a **Permittee** finds that the above stated program goals have not been achieved, that **Permittee** shall review its applicable activities

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and **BMPs** to identify any modifications which may be needed to improve **New Development/Redevelopment** program effectiveness, as necessary to comply with this **MS4 Permit**. A work plan and schedule to address program modifications shall be developed and implemented, and provided and/or updated with the applicable **Annual Report**.

d. Private Construction Activities Program

The **Permittees** shall:

- i. Make information available to developers, contractors, operators, and agency staff about upcoming educational and training workshops on construction site **Erosion** and **Sediment** control and construction materials management sponsored by industry groups, professional organizations and public agencies.

Make associated public education materials available to the public;

- ii. Continue to implement and enforce a program to reduce **Pollutants** in **Urban Runoff** to the **MS4** from construction activities that result in a **Land Disturbance** of greater than or equal to one acre. Reduction of **Pollutants** in **Urban Runoff** discharges to the **MS4** from construction activity disturbing less than one acre must be included in a program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The program must continue to include implementation of, at a minimum:

1. Ordinances or other regulatory mechanisms to require **Erosion** and **Sediment** controls, as well as sanctions, or other effective mechanisms, to ensure compliance, to the extent allowable under State or local law;
2. Requirements for construction site operators to control **Waste** such as discarded building materials, concrete truck wash-out, chemicals, litter, and sanitary **Waste** at the construction site that may cause adverse impacts to water quality;
3. Procedures for site plan review which incorporate consideration of potential water quality impacts; and
4. Procedures for site inspection and enforcement control measures. Each **Permittee** shall continue to conduct construction site inspections for compliance with its ordinances, including its **Stormwater Ordinance**, codes and the **WQMP**. Sanctions for non-compliance may include: verbal and/or written warnings, issuance of notices of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor). Construction site inspections shall at a minimum:

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- a. Verify coverage under the **Construction General Permit**, if required;
 - b. Confirm that a **SWPPP**, if required, is onsite;
 - c. Confirm compliance with the **Permittee's** ordinances; and
 - d. Check for active **Non-Storm Water** discharges or potential **IC/IDs** to the **MS4**.
- iii. Identify priorities for inspecting sites and enforcing control measures for construction projects that disturb areas equal to or greater than 1 acre. In establishing priorities for the inspection of construction sites consistent with this **MS4 Permit**, the **Permittees** shall identify sites of high and low threat to **Receiving Water** quality. Evaluation of construction sites should be based on such factors as soil **Erosion** potential, project size, proximity and sensitivity of **Receiving Waters**, history of compliance, and other relevant factors. High priority construction sites shall in any event include:
1. Construction sites that disturb an area greater than fifty (50) acres; and
 2. Construction sites that disturb greater than one (1) acre and directly discharge to an identified 303 (d) listed waterbody.
- Low priority construction sites shall include:
1. Construction sites that disturb an area of one acre or greater and less than fifty (50) acres, and do not discharge directly to an identified **CWA Section 303 (d)** listed waterbody; and
 2. Construction sites which have a demonstrated history of compliance.
- High priority sites may be re-categorized to low priority construction sites during construction. The **Permittees** shall establish inspection frequencies for individual construction sites based upon site priority, as detailed in Section 5.3 of the **SWMP**.
- iv. If a **Permittee** receives notice by its staff of a possible violation of the **Construction General Permit**, the **Permittee** shall, within two (2) working days, provide oral (Telephone: 760.346.7491) and e-mail notice to **Regional Water Board** staff of the location within its jurisdiction where the incident occurred and describe the nature of the incident;
- v. Upon referral of a construction site to **Regional Water Board** staff for failure to obtain coverage under the **Construction General Permit**, failure to keep a **SWPPP** at the construction site, if applicable, or an observed act or omission that suggests failure to comply with either, the **Permittee** will take no further action at the construction site with regard to securing compliance with the **Construction General**

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Permit. Each **Permittee** shall continue to take appropriate action to bring a construction site into compliance with its local ordinances, rules, and regulations;

- vi. Prior to the issuance of a building, **Grading** or other construction project permit, the **Permittees** shall require proof that the applicant has filed a **NOI** for the **Construction General Permit**, if such coverage is required.

Program Data Tracking

- vii. The **Permittees** shall keep the following records:

1. An up-to-date construction site inspection database, including information specified in Attachment B of this **MS4 Permit**;
2. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access to similar trackable data, such a system may be used in lieu of the construction site inspection database required in Attachment B of this **MS4 Permit**.

Annual Reporting

- viii. In its **Annual Report**, each **Permittee** shall include the following information:
 1. Total number of construction site inspections conducted, pursuant to Section F.1.d.ii.4 (above), during the reporting year;
 2. Total number and type of enforcement action(s), including referrals to the **Regional Water Board**, issued on construction sites during the reporting year; and
 3. Provide confirmation that the construction site inspection database (Attachment B of this **MS4 Permit**) has been implemented to track inspection activities during the reporting year.
- ix. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access pursuant to Section F.1.d.vii.2. (above), the **Annual Report** requirements listed in Section F.1.d.viii. (above) are waived.

Annual Program Evaluation and Assessment

- x. Each **Permittee** shall evaluate in its **Annual Report** whether the following Private Construction Activities program goals have been achieved:
 1. Maintain an updated database of active construction sites which includes categorization of sites by priority;

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2. Perform inspections to confirm construction site compliance with **Permittee Stormwater Ordinance**; and
 3. Implement enforcement measures as necessary to reduce the occurrence and recurrence of violations of **Permittee Stormwater Ordinances**.
- xi. If a **Permittee** finds that the above stated program goals have not been achieved, that **Permittee** shall review its applicable activities and **BMPs** to identify any modifications which may be needed to improve Private Construction Activities program effectiveness, as necessary to comply with this **MS4 Permit**. A work plan and schedule to address program modifications shall be developed and implemented, and provided and/or updated with the applicable **Annual Report**.

e. **Permittee Activities Program**

i. Sewage Systems

1. **Permittees** shall provide Sanitary Sewer Operators access to their **MS4** facilities for the purposes of allowing control of **SSOs**, or for the purpose of limiting the impacts to **Receiving Waters** once a spill has entered the **MS4**. **Permittees** subject to **State Board** Water Quality Order No. 2006-0003 (**Sanitary Sewer Order**) shall obtain coverage under that Order.

ii. **Permittee** Facilities and Operations

The **Permittees** shall continue to maintain an inventory of **Permittee** facilities with outdoor materials storage or maintenance areas. Requirements for all **Permittee** facilities with outdoor materials storage or maintenance areas:

1. Continue to maintain and implement **Permittee Municipal Facility/Activity Pollution Prevention Plans**; and
2. Inspect facilities requiring **Municipal Facility/Activity Pollution Prevention Plans** for appropriate **BMP** implementation once per year, at a minimum. Re-inspections and/or corrective actions shall be taken if deficiencies are found.

iii. Landscape Maintenance

Each **Permittee** shall require that pesticides be applied in conformance with existing state and federal regulations.

iv. **Permittee** Streets and Roads

1. Maintain the model fact sheet of **BMPs** for common road maintenance activities. Each **Permittee** will continue to require road maintenance personnel to review the fact sheet biennially, and implement the **BMPs** specified therein; and

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2. Each *Permittee* will continue to incorporate applicable elements of the model fact sheet of *BMPs* for common road maintenance activities into road maintenance contracts.

v. *MS4* Facilities

1. A map identifying *Receiving Waters* and *Major MS4 Outfalls* shall be maintained and updated as required;
2. Continue to implement the existing field program to detect and prevent dumping or *IDs* into *MS4* facilities; and
3. Continue to implement *MS4* maintenance schedules for basins, inlets and open channels.

Program Data Tracking

vi. The *Permittees* shall keep the following records:

1. An up-to-date inventory of *Permittee* facilities with outdoor materials storage or maintenance areas;
2. Reports from inspections conducted at *Permittee* facilities requiring *Municipal Facility/Activity Pollution Prevention Plans*;
3. An up-to-date *MS4* inspection and maintenance schedule; and
4. An up-to-date list of pesticide application personnel and their certifications.

Annual Reporting

vii. In its *Annual Report*, each *Permittee* shall include the following information:

1. Total percentage of facilities requiring *Municipal Facility/Activity Pollution Prevention Plans* that were inspected during the reporting year;
2. Narrative summary of the results of municipal facility inspections conducted pursuant to Section F.1.e.ii. (above), including a summary of deficiencies noted and corrective actions taken, if any; and
3. A summary of *MS4* facilities maintained (by *MS4* facility type) pursuant to Section F.1.e.v.3. (above) during the reporting year,.

viii. A map of the *Whitewater River Region* which identifies the most current *MS4 Permit* boundary, *Receiving Waters* and *Major MS4 Outfalls* shall be submitted by the *Permittees* with each *Annual Report*.

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- ix. If the *Permittees* choose to move to an online recordkeeping and reporting tool that provides the *Regional Water Board* with access to the reportable information listed in Section F.1.e.vii. above, the *Annual Report* requirements listed in that Section are waived.

Annual Program Evaluation and Assessment

- x. Each *Permittee* shall evaluate in its *Annual Report* whether the following *Permittee* Facilities and Activities program goals have been achieved:
1. Maintain a current map of *MS4 Outfalls, Receiving Waters*, and the *MS4 Permit* boundary;
 2. For facilities with outdoor materials storage or maintenance areas: confirm that *BMPs* described in each facility's *Municipal Facility Pollution Prevention Plans* are implemented; and
 3. Confirm that basins, inlets and open channels that are part of the *Permittee's MS4* are maintained on the schedule developed by the *Permittee*.
- xi. If a *Permittee* finds that the above stated program goals have not been achieved, that *Permittee* shall review its applicable activities and *BMPs* to identify any modifications which may be needed to improve *Permittee* Facilities and Activities program effectiveness, as necessary to comply with this *MS4 Permit*. A work plan and schedule to address program modifications shall be developed and implemented, and provided and/or updated with the applicable *Annual Report*.

f. Public Education and Outreach Program

- i. Illegal Dumping and General Outreach
1. Continue to conduct education/outreach to the general public on impacts to *Receiving Waters* from:
 - a. Littering, illegal dumping and other improper disposal of *Wastes*; and
 - b. Leakage or dumping of gasoline, oil and grease, antifreeze and hydraulic fluid from vehicles into the streets.
 2. Continue to conduct education/outreach to the general public on the impacts of dumping *Pollutants*, including *Pollutants* from landscaping and home maintenance activities, into *MS4* facilities;

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3. Continue to support the efforts of the **County HHW Program**, which provides a convenient means to properly dispose of oil, antifreeze, pesticides, herbicides, paints, solvents, and other potentially harmful chemicals; and
 4. Continue to conduct education/outreach to the general public about **BMPs** for residential car washing.
- ii. Landscaping
 1. Continue to conduct education/outreach to the general public on the proper application and management of pesticides, fertilizers and herbicides; and
 2. Continue to conduct education/outreach to the general public on the proper management of irrigation systems to prevent runoff to the **MS4**. Where appropriate, coordinate with the Natural Resources Conservation Service, Resource Conservation Districts and University of California Cooperative Extension.
 - iii. Pet Ownership
 1. Continue to conduct education/outreach to the general public regarding the need to clean-up and properly dispose of pet **Waste**.
 - iv. Construction
 1. Continue to make information available to contractors, operators, and **Permittee's** staff about upcoming educational and training workshops on construction site **Erosion** control and construction materials management sponsored by professional organizations and public agencies. Make associated public education materials available, as appropriate.
 - v. Industrial/Commercial
 1. Continue to conduct education/outreach to landowners, tenants, business owners, and industrial operations regarding the need to implement appropriate **BMPs** to control **Non-Storm Water** discharges and properly maintain outdoor material storage areas.
 - vi. Training of **Permittee** Staff

The **Permittees** shall continue to develop and implement training programs for the following categories of their employees: Maintenance staff, Industrial/Commercial inspectors, **New Development/Redevelopment** staff, and Construction inspectors. The training program shall cover: a) applicable requirements of this **MS4 Permit**, the **General Industrial Permit and Construction General Permit**, b) proper **BMP** implementation, and c)

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identification of *IC/IDs* that may be associated with the area of training.

Additionally, for *Permittee* Maintenance staff, the training shall continue to educate/inform *Permittee's* personnel responsible for *MS4* facility, park, golf course, and highway right-of-way maintenance on the proper use and management of pesticides, fertilizers, and herbicides. Alternative methods for controlling insects and weeds such as biological controls and the use of less toxic chemicals should be encouraged. This training may be accomplished through existing mandatory training programs for pesticide, fertilizer and herbicide management.

Program Data Tracking

vii. The *Permittees* shall keep the following records:

1. Number of regional public education outreach events conducted, by type (construction, industrial, residential, *New Development*, schools, general public, etc), including approximate attendance where applicable;
2. *HHW* Collection Program activities including:
 - a. Event dates and number of days per event;
 - b. Type and amount of material collected; and
 - c. Advertisement impressions by type (newspaper, television, radio, banners, flyers, etc.).
3. Records of *Permittee* staff trained, including topic, date and number of staff trained;
4. Usage (call volume) of the "Only Rain Down the Stormdrain" *Pollution Prevention* Program hotline;
5. Copies or records of public education materials utilized and/or made available to the general public and target audiences during *Permittee* education/outreach activities; and
6. Public surveys and impression counts, to be gathered where feasible;

Annual Reporting

viii. In its *Annual Report*, each *Permittee* shall include the following information:

1. A narrative summary of Public Education and Outreach program accomplishments or issues encountered during the reporting year;

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2. The number of public education outreach events conducted during the reporting year, by type (construction, industrial, residential, **New Development**, schools, general public, etc.), including approximate attendance where applicable;
 3. A summary of type(s) and numbers, where feasible, of outreach materials distributed during the reporting year; and
 4. Number of **Permittee** staff trained during the reporting year; including topic (municipal, industrial/commercial, construction, **New Development**) and date.
- ix. If the **Permittees** choose to move to an online recordkeeping and reporting tool that provides the **Regional Water Board** with access to the reportable information listed in Section F.1.f.viii. above, the **Annual Report** requirements listed in that Section are waived.

Annual Program Evaluation and Assessment

- x. Each **Permittee** shall evaluate in its **Annual Report** whether the following Public Education and Outreach program goals have been achieved:
1. Conduct education/outreach to the general public on the impacts of improper disposal of pollutants into **MS4s**;
 2. Develop and distribute targeted **BMP** guidance for specific pollutants and residential and business activities; and
 3. Confirm that **Permittee** employees are trained to implement **MS4 Permit** compliance programs.
- xi. If a **Permittee** finds that the above stated program goals have not been achieved, that **Permittee** shall review its applicable activities and **BMPs** to identify any modifications which may be needed to improve Public Education and Outreach program effectiveness, as necessary to comply with this **MS4 Permit**. A work plan and schedule to address program modifications shall be developed and implemented, be provided and/or updated with the applicable **Annual Report**.

G. IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS**CVSC Bacterial Indicators TMDL**1. Interim **WQBEL** and Phase 1 Implementation and Compliancea. Interim **WQBEL**. The City of Coachella shall:

- i. Upon approval by the **Regional Water Board Executive Officer**, implement the monitoring plan submitted on January 6, 2013 and revised on February 13, 2013, for the City of Coachella's outfalls to the **CVSC Bacterial Indicators TMDL**.
- ii. Submit by January 31, 2016 a Quality Assurance Project Plan and summary report (2016 QAPP) that addresses:
 1. Whether **Urban Runoff** discharges from the City of Coachella's **MS4** to the **CVSC** are in compliance with the City of Coachella's **WLA**,
 2. Whether sources of exceedances, if any, are controllable; and
 3. Recommendations for additional **BMPs**, if required, that are appropriate given background conditions, cost factors and the status of **Regional Water Board** efforts to revise **WQOs** for the **CVSC** to address the City of Coachella's **WLA** as required by the **TMDL**. If recommendations for additional **BMPs** are provided, then the following information should be provided:
 - a. The specific additional **BMPs** implemented to reduce the concentration of Bacterial Indicators from controllable urban sources and the water quality improvements expected to result from these **BMPs**;
 - b. The specific regional treatment facilities and the locations where such facilities will be built to reduce controllable urban bacterial indicators and the water quality improvements to result when the facilities are complete.
 - c. The scientific and technical documentation used to conclude that the additional **BMPs**, once fully implemented, are expected to achieve the City of Coachella's **WLA**.
 - d. A schedule for implementing the additional **BMPs** including identification of milestones to assess satisfactory progress toward achieving the City of Coachella's **WLA**.
 - e. The specific metrics that will be used to demonstrate the effectiveness of the additional **BMPs**; and
 - f. Identification of additional **BMPs** that may be required if the initial plan does not achieve the City of Coachella's **WLA** as required by the **TMDL**.

G. IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS

- iii. Implementation of the requirements of Section G.1.a. shall constitute compliance with the Interim **WQBEL** and Phase 1 of the implementation plan for the **CVSC** Bacterial Indicators **TMDL**.

2. Final **WQBEL** Implementation and Compliance

- a. Once approved by the **Regional Water Board Executive Officer**, the City of Coachella's 2016 QAPP shall be incorporated into this **MS4 Permit** as the final **WQBEL** for the **CVSC** Bacterial Indicators **TMDL**. Implementation of the requirements of the 2016 QAPP shall constitute compliance with the final **WQBEL** and Phase 2 of the implementation plan for the **CVSC** Bacterial Indicators **TMDL**.
- b. If the **Regional Water Board Executive Officer** does not approve the 2016 QAPP prior to June 30, 2016, the **CVSC** Bacterial Indicators **TMDL WLAs** will become the final **WQBEL(s)**, and compliance with the **WQBEL(s)** will be assessed through implementation of **BMPs** by the City as approved by the **Regional Water Board** consistent with Phase 2 of the implementation plan for the **CVSC** Bacterial Indicators **TMDL**.

H. GENERAL PROVISIONS

1. Duty to Comply [40 CFR 122.41 (a)]

- a. The **Permittee** must comply with all of the conditions of this **MS4 Permit**. Any noncompliance constitutes a violation of the **CWA** and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or denial of a permit renewal application.
- b. The **Permittee** shall comply with effluent standards or prohibitions established under section 307(a) of the **CWA** toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the **MS4 Permit** has not yet been modified to incorporate the requirement.

2. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41 (c)]

It shall not be a defense for a **Permittee** 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 **MS4 Permit**.

3. Duty to Mitigate [40 CFR 122.41(d)]

The **Permittees** shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this **MS4 Permit**, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Proper Operation and Maintenance [40 CFR 122.41(e)]

The **Permittees** 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 **Permittees** to achieve compliance with the conditions of this **MS4 Permit**. 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, which are installed by the discharger only when the operation is necessary to achieve compliance with the conditions of this **MS4 Permit**.

5. Permit Actions [40 CFR 122.41(f)] [CWC § 13381]

This **MS4 Permit** may be modified, revoked and reissued, or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64. Causes for taking such actions include, but are not limited to:

- a. Endangerment to human health or the environment resulting from the permitted activity, including information that the discharge(s) regulated by this **MS4 Permit** may have the potential to cause or contribute to adverse impacts on water quality and/or **Beneficial Uses**;

- b. Acquisition of newly-obtained information that would have justified the application of different conditions if known at the time of **MS4 Permit** adoption;
- c. To address changed conditions identified in required reports or other sources deemed significant by the **Regional Water Board**;
- d. To incorporate provisions as a result of future amendments to the **Basin Plan**, such as a new or revised WQO or the adoption or reconsideration of a **TMDL**, including the program of implementation. Within 18 months of the effective date of a revised **TMDL** or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this **MS4 Permit**, the **Regional Water Board** may modify this **MS4 Permit** consistent with the assumptions and requirements of the revised **WLA(s)**, including the program of implementation;
- e. To incorporate provisions as a result of new or amended statewide water quality control plans or policies adopted by the **State Board**, or in consideration of any **State Board** action regarding the precedential language of State Water Board Order WQ 99-05, Receiving Water Limitations; and/or
- f. To incorporate provisions as a result of the promulgation of new or amended federal or state laws or regulations or judicial decisions that becomes effective after adoption of this **MS4 Permit**.

The filing of a request by the **Permittee** for a **MS4 Permit** modification, revocation, and reissuance, or termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition of this **MS4 Permit**.

6. Property Rights [40 CFR 122.41(g)]

This **MS4 Permit** does not convey any property rights of any sort or any exclusive privilege.

7. Inspection and Entry [40 CFR 122.41(i)] [**CWC** § 13267(c)]

The **Permittees** shall allow an authorized **Regional Water Board** representative, or an authorized representative of the **USEPA** (including an authorized contractor acting as a representative of the **Regional Water Board** or **USEPA**), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the **Permittee's** premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this **MS4 Permit**;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this **MS4 Permit**;
- c. Inspect at reasonable times any **Permittee** facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this **MS4 Permit**, and

H. GENERAL PROVISIONS

- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this **MS4 Permit** or as otherwise authorized by the **CWA** or **CWC**, any substances or parameters at any location.

8. Records [40 C.F.R. § 122.41(j)(2)]

The **Permittees** 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 **MS4 Permit**, and records of all data used to complete the application for this **MS4 Permit**, 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 time.

9. Bypass [40 CFR 122.41 (m)]

- a. Bypass not exceeding limitations - A **Permittee** may allow any bypass to occur which does not cause **Effluent Limitations** to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Section H.9.b. and H.9.c. (below).
- b. Notice – If a **Permittee** knows in advance of the need for bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass. A **Permittee** shall submit notice of an unanticipated bypass as required in Section I.6. of this **MS4 Permit**.
- c. Prohibition of Bypass - Bypass is prohibited, and the **Regional Water Board** may take enforcement action against a **Permittee** 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 **Permittee** submitted notice as required under Section 9.b. (above).
- d. The **Executive Officer** may approve an anticipated bypass, after considering its adverse effects, if the **Executive Officer** determines that it will meet the three conditions listed in Section H.9.c. (above).

10. 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

H. GENERAL PROVISIONS

factors beyond the reasonable control of the **Permittee**. 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.

- a. 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 Section H.10.b. (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.
 - b. Conditions necessary for a demonstration of upset - A **Permittee** 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 **Permittee** can identify the cause(s) of the upset;
 - ii. The permitted facility was at the time being properly operated;
 - iii. The **Permittee** submitted notice of the upset as required in Section I.6. (below); and
 - iv. The **Permittee** complied with any remedial measures required under Section H.3. (above).
 - c. Burden of Proof - In any enforcement proceeding the **Permittee** seeking to establish the occurrence of an upset has the burden of proof.
11. The **Permittees** shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this **MS4 Permit**, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the non-complying discharge.
12. The provisions of this **MS4 Permit** are severable, and if any provision of this **MS4 Permit**, or the application of any provision of this **MS4 Permit** to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this **MS4 Permit**, shall not be affected thereby.
13. The **Permittees** shall comply with any interim **Effluent Limitations** as established by addendum, enforcement action, or revised **WDRs** that have been, or may be, adopted by this **Regional Water Board**.
14. In cases where **Urban Runoff** quality is impacted by discharges of **Wastes** from lands or facilities not owned, operated or maintained by, or under the regulatory jurisdiction of the **Permittee(s)**, or which is under the jurisdiction of the **Regional Water Board** by NPDES permit, waste discharge requirement or waiver of waste discharge requirement), the **Permittee(s)** may notify the **Regional Water Board**

H. GENERAL PROVISIONS

of its need to regulate those discharges, to the extent the **Regional Water Board** has jurisdiction over such discharges. Such a notice shall include:

- a. A written description of the discharge and documentation, if available, of water quality problems caused by the discharge;
- b. An 8 ½ inch x 11 inch location map which delineates the location of the discharge; and
- c. Documentation that the **Permittee(s)** does not have jurisdiction over the discharge and/or is unable to require compliance or that the discharge is under the jurisdiction of the **Regional Water Board**.

The **Permittee(s)** may submit such notice at any time.

I. REPORTING REQUIREMENTS

1. Duty to Reapply [40 CFR 122.41(b)]

This **MS4 Permit** expires on June 20, 2018. If the **Permittees** wish to continue any activity regulated by this **MS4 Permit** after the expiration date of this **MS4 Permit**, the **Permittees** must apply for and obtain a new **MS4 Permit**. The **Permittees** must file a **ROWD** in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of the expiration date of this **MS4 Permit** as application for issuance of a new **MS4 Permit**. The **ROWD** shall, at a minimum, include:

- a. Proposed revisions to the **SWMP**, based on program data gathered throughout the **MS4 Permit** term, and analysis required by Section L.11.d of this **MS4 Permit**. Proposed **SWMP** revisions may include, but not be limited to: activities the **Permittees** proposed to undertake during the next **MS4 Permit** term, goals and objectives of such activities, an evaluation of the need for additional **Source Control** and/or **Structural BMPs**, proposed pilot studies, etc.;
- b. Any new or revised program elements and compliance schedule(s) necessary to comply with Section D. **RECEIVING WATER LIMITATIONS** and Section G. **IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS** of this **MS4 Permit**;
- c. Changes in land use and/or population including map updates; and
- d. Significant changes to the **MS4s**, outfalls, detention or retention basins or dams, and other controls, including map updates of the **MS4s**.

2. Duty to Provide Information [40 CFR 122.41 (h)]

The **Permittees** shall furnish to the **Regional Water Board**, **State Board**, or **USEPA**, within a reasonable time, any information which the **Regional Water Board**, **State Board**, or **USEPA** may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this **MS4 Permit**, or to determine compliance with this Permit. The **Permittees** shall also furnish to the **Regional Water Board**, **State Board**, or **USEPA**, upon request, copies of records required to be kept by this **MS4 Permit**.

3. Anticipated Non-Compliance [40 CFR 122.41 (l)(2)]

The **Permittees** shall give advance notice to the **Regional Water Board** of any planned changes in the permitted facility or activity that may result in noncompliance with the requirements of this **MS4 Permit**.

4. Transfers [40 CFR 122.41(l)(3)]

This **MS4 Permit** is not transferable to any **Person** except after notice to the **Regional Water Board**. The **Regional Water Board** may require modification or

I. REPORTING REQUIREMENTS

revocation and reissuance of this **MS4 Permit** to change the name of the **Permittees** and incorporate such other requirements as may be necessary under the **CWA** or the **CWC** in accordance with the following:

a. Transfers by Modification [40 CFR 122.61(a)]

This **MS4 Permit** may be transferred by the **Permittees** to a new owner or operator only if this **MS4 Permit** has been modified or revoked and reissued, or a minor modification made to identify the new **Permittee** and incorporate such other requirements as may be necessary under the **CWA** or **CWC**.

b. The **Regional Water Board** does not notify the existing **Permittee** and the proposed new **Permittee** of its intent to modify or revoke and reissue this **MS4 Permit**. A modification under this subparagraph may also be a minor modification under 40 CFR Part 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 40 CFR Part 122.63 b. (2) of this reporting requirement.

5. Compliance Schedules [40 CFR 122.41(l)(5)]

Written reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this **MS4 Permit** shall be submitted to the **Regional Water Board** no later than 14 days following each schedule date.

6. Twenty-four Hour Reporting [40 CFR 122.41 (l)(6)]

a. Each **Permittee** shall report any noncompliance that may endanger human health or the environment. Any information shall be provided orally to the **Regional Water Board** within 24 hours from the time the **Permittee** becomes aware of the circumstances. A written description of any noncompliance shall be submitted to the **Regional Water Board** within five business days of such an occurrence and 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 recurrence of the noncompliance.

7. Other Non-Compliance [40 CFR 122.41 (l)(7)]

A **Permittee** shall report all instances of noncompliance not reported under Sections I.5. and I.6. (above), at the time monitoring reports are submitted. The reports shall contain the information listed in Section I.6. (above).

8. Other Information [40 CFR 122.41 (l)(8)]

Where a **Permittee** becomes aware that it failed to submit any relevant facts in a **ROWD**, or submitted incorrect information in a **ROWD**, or in any report to the **Regional Water Board**, it shall promptly submit such facts or information.

9. Signatory Requirements [40 CFR 122.41(k)(1) and 40 CFR 122.22]

All applications, reports, or information submitted to the **Regional Water Board** shall be signed and certified.

- a. All **ROWDs** shall be signed by either a principal executive officer or ranking elected official.
- b. All reports required by this **MS4 Permit**, and other information requested by the **Regional Water Board** shall be signed by a **Person** described in Item No. 9. a. of this reporting requirement, 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 Item No. 9. a. of this reporting requirement;
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 - iii. The written authorization is submitted to the **Regional Water Board**.
- c. If an authorization under paragraph b. 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 requirement of Item No. 9. b. of this reporting requirement must be submitted to **Regional Water Board** prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Any **Person** signing a document under paragraph Item No. 9 a. or b. of this reporting requirement 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.

10. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this **MS4 Permit** shall be available for public inspection at the offices of the **Regional Water Board**. As required by the **CWA, ROWDs**, this **MS4 Permit**, and monitoring data shall not be considered confidential.

11. The discharger shall submit reports and provide notifications as required by this **MS4 Permit** to the following:

I. REPORTING REQUIREMENTS

Executive Officer
California Regional Water Quality Control Board Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Eugene Bromley
U.S. Environmental Protection Agency - Region IX Permits Issuance Section
(W-5-1)
75 Hawthorne Street
San Francisco, CA 94105

Unless otherwise directed, the discharger shall submit one hard copy and one electronic copy, as a searchable Portable Document Format (PDF), of each report required under this **MS4 Permit** to the **Regional Water Board** and one electronic copy, as a searchable PDF, to **USEPA**.

J. NOTIFICATIONS1. **CWC** Section 13263(g)

No discharge of **Waste** into the **Waters of the State**, whether or not the discharge is made pursuant to **WDRs**, shall create a vested right to continue the discharge. All discharges of **Waste** into **Waters of the State** are privileges, not rights.

2. The **Regional Water Board** has, in prior years, issued a limited number of individual **NPDES** permits for **Non-Storm Water** discharges. The **Regional Water Board** or **State Board** may in the future, upon prior notice to the **Permittee(s)**, issue an **NPDES** permit for any **Non-Storm Water** discharge (or class of **Non-Storm Water** discharges) to the **MS4**. **Permittees** may prohibit any **Non-Storm Water** discharge (or class of **Non-Storm Water** discharges) to the **MS4** that is authorized under such separate **NPDES** permits.
3. Enforcement Provisions [40 CFR 122.41(a)(2)] [**CWC** Sections 13385 and 13387].
4. The **CWA** provides that any **Person**, who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation of this **MS4 Permit**, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The **CWA** provides that any **Person**, who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation of this **MS4 Permit**, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a **Person** shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or both. Any **Person** who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent conviction for a knowing violation, a **Person** shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than six years, or both. Any **Person** who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation of this **MS4 Permit**, and who knows at that time that he or she thereby places another **Person** in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a **Person** shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the **CWA** shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions. Nothing in this **MS4 Permit** shall be construed to preclude the institution of any legal action or relieve the **Permittee** from any responsibilities, liabilities, or penalties to which the **Permittees** are or may be subject under Section 311 of the **CWA** or established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the **CWA**.

J. NOTIFICATIONS