

## California Regional Water Quality Control Board, San Diego Region

May 29, 2015

Sent via E-mail

San Diego County Municipal Storm Water Copermittees

**Subject: Comments on the Draft Model Best Management Practice (BMP) Design Manual for the San Diego Region, dated January 2015**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) has completed review of the *Draft Model BMP Design Manual for the San Diego Region*, dated January 2015 (Draft BMP Design Manual). The Draft BMP Design Manual was developed pursuant to Provision E.3.d of Order No. R9-2013-0001, NPDES No. CAS010266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Order)<sup>1</sup>. The Draft BMP Design Manual provides procedures for planning, selecting, and designing source control and site design requirements for development projects in accordance with the requirements of Provision E.3 of the Order and is intended to be used as a basis for jurisdiction-specific BMP Design Manuals in San Diego County.

The Draft BMP Design Manual should be revised in accordance with the comments provided below and implemented within the 180-day period stipulated in Provision E.3.d. of the Order, no later than December 29, 2015.

### **1. Priority Development Project Categories**

The Priority Development Project categories described in section 1.4.1 of the Draft BMP Design Manual are inaccurate and incomplete. A complete and clear description of these categories is needed in order for Copermittees, the development community, and other stakeholders to know when a development project is considered a Priority Development Project, and therefore required to implement numerically sized permanent, post-construction pollutant control and hydromodification management (flow control) BMPs.

On March 4, 2015, San Diego Water Board met with City of San Diego staff to discuss the

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<sup>1</sup> The Order was amended on February 11, 2015 to extend coverage to Copermittees in Orange County. Citations and page numbers referenced in this letter refer to the amended Order.

Priority Development Project categories. Based on this meeting, the San Diego Water Board determined that some of the Priority Development Project categories described in Provision E.3.b.(1) of the Order are not clearly worded to reflect the San Diego Water Board's intentions as reflected in the Fact Sheet to the Order in Attachment F on Page F-98. The requirements included in the Order were intended to be consistent with the Priority Development Project categories as described in both the existing Riverside County MS4 Permit (Order No. R9-2010-0016) and the now expired Orange County MS4 Permit (Order No. R9-2009-0002). This intent is documented in the Fact Sheet to the Order in Attachment F on Page F-98, which states that "The Priority Development Project categories are based on the requirements of the Fourth Term MS4 Permits for Orange County and Riverside County (Order Nos. R9-2009-0002 and R9-2010-0016, respectively) . . ."

Because the intention reflected in the Fact Sheet was not explicitly incorporated in Provision E.3.b.(1) of the Order, the San Diego Water Board intends to incorporate clarifying language to the Priority Development Project categories described in Provision E.3.b.(1) of the Order later this year, during the Board's proceedings to consider extending coverage of the Order to the Riverside County Copermittees. The proposed revisions to the Order for the Priority Development Project categories are shown in underline text in Attachment 1 to this letter. The proposed changes described in Attachment 1 are consistent both with the Fact Sheet of the Order on Page F-98 and the permit language previously adopted by the San Diego Water Board in the Orange County and Riverside County MS4 Permits.

Based on these considerations, the Priority Development Project categories in section 1.4.1 of the Draft BMP Design Manual should be revised to be consistent with the proposed revisions described in Attachment 1 to this letter.

## **2. Ground Mounted Solar Arrays**

Table 1-1 on Page 4 of the Draft BMP Design Manual describes the applicability of permanent, post-construction BMP requirements to typical land development projects. The table states that permanent, post-construction BMP requirements apply to "ground mounted solar arrays (unless runoff is directed to pervious areas directly beneath arrays)." This description is more specific than the Priority Development Project categories described in the Order. Installation of solar arrays may lead to channelized flow and erosion of underlying soil during a rain event, and therefore BMPs to mitigate for pollutants or accelerated flow may be required. Determination of the need for BMPs should occur on a case-by-case basis. Therefore, the San Diego Water Board suggests removing the reference to ground mounted solar arrays in Table 1-1 to avoid unnecessary confusion.

### **3. Alternative Compliance for Impacts to Critical Course Sediment Yield Areas**

Section 6.2.4.3 of the Draft BMP Design Manual describes alternative compliance measures for impacts to critical coarse sediment yield areas. The text states that a local jurisdiction may allow a project proponent to propose alternative compliance measures if the jurisdiction determines that avoidance of critical coarse sediment yield is infeasible. The alternative compliance measures include the purchase and preservation of undeveloped land within a floodplain, removal or modification of a channel constriction, or participation in a beach sand replenishment program.

Such alternative compliance measures are not permitted in the Order. Provision E.3.c.(3) of the Order describes the *Alternative Compliance Program to Onsite Structural BMP Implementation*. The Provision states “At the discretion of each Copermittee, Priority Development Projects may be allowed to participate in an alternative compliance program in lieu of implementing the onsite structural BMP performance requirements of Provisions **E.3.c.(1)** and **E.3.c.(2)(a)**, provided that the Water Quality Improvement Plan includes the optional Watershed Management Area Analysis described in Provision B.3.b.(4)...(emphasis added).”

Provision E.3.c.(1) describes BMP requirements for pollutant control, and Provision E.3.c.(2)(a) describes BMP requirements for flow control. The language describing the alternative compliance program does *not* reference Provision E.3.c.(2)(b), which describes the requirement to avoid critical sediment yield areas. Provision E.3.c.(2)(b) requires a project proponent to “...avoid critical sediment yield areas known to the Copermittee...or implement measures that allow critical course sediment to be discharged to receiving waters, such that there is no net impact to the receiving waters.” The alternative compliance measures included in section 6.2.4.3 of the Draft BMP Design Manual would not ensure “no net impacts to the receiving waters” if critical course sediment yield areas were to be eliminated due to land development. Therefore, in order to be in compliance with Provision E.3.c.(3) of the Order, the San Diego Water Board recommends removing Section 6.2.4.3 of the Draft BMP Design Manual in its entirety.

Please submit any written correspondence in response to this letter to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov). Electronic documents must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must also include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: **PIN: CW-710562:carias.**

Should you have any questions or comments on this matter, please contact Christina Arias by phone at (619) 521-3361 or by e-mail at [Christina.Arias@waterboards.ca.gov](mailto:Christina.Arias@waterboards.ca.gov).

Respectfully,



*for* James G. Smith, AEO  
David Gibson  
Executive Officer  
San Diego Regional Water Quality Control Board

DG:jgs:dtb:esb:cma

Enclosure: Attachment 1 – Proposed language for Provision E.3.b.(1) of Order No. R9-2013-0001 (as amended by Order No. R9-2015-0001)

Distribution via email: San Diego County Copermittees

cc: via email: Orange County Copermittees  
Riverside County Copermittees

Tech Staff Info & Use	
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