

## **Introduction**

In March 2006, the Riverside County Flood Control & Water Conservation District (District), the County of Riverside (County), 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 (collectively, Permittees) submitted a Report of Waste Discharge (ROWD), as an application for renewal of the municipal separate storm sewer system (MS4) Permit that expired on September 5, 2006. In May 2008, the Regional Water Quality Control Board, Colorado River Basin Regions, (Regional Board) adopted the 2008 MS4 Permit (R7-2008-0001). The Permittees currently operate under the 2008 MS4 Permit and implement the programs described in the 2006 SWMP until their 2009 SWMP is approved by the Regional Board. The 2009 SWMP was submitted to the Regional Board on June 29, 2009.

The 2008 MS4 Permit identifies the District and the County as Principal Permittees and the CVWD and the cities as Co-Permittees. Under this organizational framework the Principal Permittees are responsible for coordinating collective Permittee activities, including report preparation and submittals to the Regional Board.

In 1993, the Whitewater River Region Permittees prepared a Model Water Quality Ordinance to provide a more uniform, countywide approach and a legal underpinning to the area-wide stormwater program. The Permittees took actions to implement programs that would enable them to comply with the MS4 Permit requirements. In 2008, the new MS4 Permit brought about new requirements. To comply with those requirements, the Permittees have either verified that they have sufficient legal authority, obtained legal authority or are in the process of obtaining the legal authority to implement and enforce the Storm Water Management Plan (SWMP) and Water Quality Management Plan (WQMP) programs and the 2008 MS4 Permit requirements.

## Legal Authority Overview

The Permittees are separate legal entities and, as such, have the authority to develop, administer, implement, and enforce urban runoff management programs within their respective jurisdictions. In addition, the Permittees have maintenance responsibilities for the MS4 facilities within their jurisdictional boundaries.

Each Permittee is required to address its legal authority and enforcement for this MS4 Permit. Each Permittee has adopted a number of ordinances, to establish legal authority to control discharges to the MS4s and to enforce these ordinances as specified in 40 CFR 122.26(d)(2)(i)(B, C, E, and F). The Permittees are required to enforce these ordinances and to take enforcement actions against violators (40 CFR 122.26(d)(2)(iv)(A-D). Each Permittee shall establish and maintain adequate legal authority for 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;
  - 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; and
- 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.

Because the District 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 District and CVWD rely on the principle of “combined legal authority”. As special districts, the District and CVWD lack the “police power” expressly granted to cities and counties by California’s constitution from which “land use authority” is derived. The County of Riverside Board of Supervisors has designated the Director of the County’s Transportation & Land Management Agency to administer the County’s storm water ordinance and implementation of the SWMP.

Section E.4 of the MS4 Permit requires that each Permittee review its ordinances to ensure that they continue to have adequate authority to implement and enforce this MS4 Permit. (Section N of the permit states this must be completed by June 15, 2009).

Each Permittee is required to submit a statement (signed by legal counsel) certifying legal authority to implement and enforce this MS4 Permit. If such legal authority does not currently exist for a Permittee, that Permittee is required to provide an implementation schedule identifying the legal changes necessary to adopt new ordinances or to amend existing ordinances that would enable the Permittee to obtain the requisite legal authority to fully implement and enforce this MS4 Permit.

The implementation schedule is required to be provided to Regional Board staff for its approval as part of the Fiscal Year 2008-2009 Annual Report. Upon completion of the approved implementation schedule, the Permittee are required to submit a statement (signed by legal counsel) certifying legal authority to implement and enforce this MS4 Permit.

### **Present Status Of Permittees Exercise of Legal Authority**

Each Permittee has reviewed its ordinances to verify adequate authority to implement and enforce this MS4 Permit. Each Permittee has submitted either a statement or a certification of legal authority, signed by legal counsel, to implement and enforce this MS4 Permit which is included in this submittal or a commitment to develop an implementation schedule identifying the legal changes necessary to adopt new ordinances or to amend existing ordinances that would enable the Permittee to obtain the requisite legal authority to fully implement and enforce this MS4 Permit.

Included in this submittal are the individual Permittee letters addressed to Mr. Robert Perdue, Executive Officer of the Colorado River Basin Regional Water Quality Control Board. The District, on behalf of the Permittees, respectfully submits this collection of legal certification statements or schedules from the Permittees.

Below is a summary table of the submittals:

<b>PERMITTEE</b>	<b>REVIEW COMPLETED</b>	<b>LEGAL AUTHORITY</b>
Riverside County Flood Control and Water Conservation District	June 15, 2009	The District has adequate legal authority to perform their responsibilities as set forth in the MS4 permit. A combined letter for the District and the County signed by County Counsel is included in this submittal.
The County of Riverside	June 15, 2009	Riverside County has adequate legal authority to implement and enforce the storm water requirements.
Coachella Valley Water District	June 15, 2009	CVWD's legal authority to implement and enforce the MS4 permit is derived from the combined legal authority of Riverside County and from the cities through which the stormwater facilities pass and the interagency cooperative agreement signed by CVWD and other Permittees of the MS4 permit.
Banning	June 9, 2009	Does not have adequate legal authority at this time for all requirements pursuant to the Permit. A proposed ordinance addressing Grading, Erosion, and Sediment Control (Ordinance No. 1388) is scheduled to be presented to City Council in order to ensure sufficient legal authority exists to comply with various requirements of the Permit.
Cathedral City	June 16, 2009	Has adequate legal authority to implement and enforce the storm water requirements. The City intends to consider certain amendments to its existing storm water management and discharge control ordinances
Coachella	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements. The City intends to consider certain amendments to its existing storm water management and discharge control ordinances.
Desert Hot Springs	June 25, 2009	Does not have adequate legal authority at this time for all requirements pursuant to the Permit. Submitted a schedule for updating ordinances.
Indian Wells	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements.
Indio	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements. The City intends to consider certain amendments to its existing storm water management and discharge control ordinances.
La Quinta	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements.
Palm Desert	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements.
Palm Springs	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements. The City intends to consider certain amendments to its existing storm water management and discharge control ordinances.
Rancho Mirage	June 15, 2009	Has adequate legal authority to implement and enforce the storm water requirements. The City intends to consider certain amendments to its existing storm water management and discharge control ordinances.