

Appendix XIV. Certification of Adequate Legal Authority

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Date

David W. Gibson, Executive Officer
Regional Water Quality Control Board
San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: Certification of Adequate Legal Authority

Dear Mr. Gibson:

Pursuant to San Diego Regional Water Quality Control Board Order No. R9-2013-0001, as amended by Order No. R9-2015-0001 (Municipal Permit or Permit), section E.1, the City of San Diego, as Copermittee in the above referenced permit, submits this certification of adequate legal authority. The City has adequate legal authority to implement and enforce each requirement contained in 40 C.F.R. section 122.26(d)(2)(i)(A)-(F), and Municipal Permit, section E.1.a(1)-(10). The San Diego Municipal Code, including the following provisions, provides the City with adequate legal authority as required by the Municipal Permit:

1. Storm Water Management and Discharge Control, sections 43.0301 through 43.0312.
These provisions are being amended, although the current version also complies with the requirements of the Municipal Permit.
2. General Construction Permit Authority and Procedures, sections 129.0101 through 129.0120.
3. Grading Regulations, sections 142.0101 through 142.0150.
4. Storm Water Runoff Control and Drainage Regulations, sections 142.0201 through 142.0230.

The San Diego Municipal Code authorizes judicial and administrative enforcement procedures to mandate compliance. Where there is a violation of the San Diego Municipal Code, the City may issue criminal misdemeanor complaints and seek injunctive relief or civil penalties. Additionally, the City may mandate compliance through its sampling authority, cease and desist orders, cleanup and abatement orders, and monitoring and mitigation, authority. The City's enforcement authority is in the following sections of the San Diego Municipal Code:

1. Code Enforcement Judicial and Administrative Remedies, sections 12.0101 to 12.1105.
2. Recovery of Code Enforcement Penalties and Costs, sections 13.0101 to 13.0425.
3. Enforcement Authority for the Land Development Code, sections 121.0201 through 121.0206.
4. Violations of the Land Development Code and General Remedies, sections 121.0301 through 121.0316.

As a municipal corporation, the City “generally shall have all municipal powers, functions, rights, privileges, and immunities . . . granted to municipal corporations by the Constitution and laws of the State of California,” as stated in San Diego Charter section 1. This includes the authority to enter into contracts. San Diego Municipal Code section 22.3210 sets forth the City’s procedures for entering into contracts with other public agencies.

This legal authority empowers the City, at a minimum, to do the following as required by Section E.1.a of the Municipal Permit:

1. Prohibit and eliminate all illicit discharges and illicit connections to the municipal separate storm sewer system (MS4).
2. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites, including industrial and construction sites which have coverage under the statewide General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit) or General Permit for Discharges of Storm Water Associated with Construction Activities (Construction General Permit), as well as to those sites which do not.
3. Control the discharge of spills, dumping, or disposal of materials other than storm water into the MS4.
4. Control through interagency agreements among Copermittees the contribution of pollutants from one portion of the MS4 to another portion of the MS4.
5. Control, by coordinating and cooperating with other owners of the MS4 such as Caltrans, the U.S. federal government, or sovereign Native American Tribes through interagency agreements, where possible, the contribution of pollutants from their portion of the MS4 to the portion of the MS4 within the City’s jurisdiction.
6. Require compliance with conditions in City ordinances, permits, contracts, orders, or other similar means to hold dischargers to the MS4 accountable for their contributions of pollutants and flows.
7. Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants in storm water from the City’s MS4 to the maximum extent practicable (MEP).
8. Require documentation on the effectiveness of BMPs implemented to prevent or reduce the discharge of pollutants in storm water from the City’s MS4 to the MEP.
9. Utilize enforcement mechanisms to require compliance with City ordinances, permits, contracts, orders, or similar means.

10. Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with City ordinances, permits, contracts, order, or similar means and with the requirements of the Municipal Permit, including the prohibition of illicit discharges and connections to the MS4, which includes the authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities, including construction sites, discharging to the City's MS4.

The City looks forward to working with you and the Regional Board on storm water management matters.

Sincerely yours,

Scott Chadwick
Chief Operating Officer

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