



FINAL MITIGATED NEGATIVE DECLARATION

Project No. 435930
SCH# 2015081066

SUBJECT: CITY COUNCIL APPROVAL OF THE STORM WATER STANDARDS MANUAL UPDATE to update the City's storm water-related requirements for land development and construction activities in accordance with the 2013 Municipal Permit (Municipal Permit).

APPLICANT: City of San Diego Transportation & Storm Water Department – Storm Water Division

UPDATE – 011216

Revisions have been made to the draft Mitigated Negative Declaration (MND) which appear in a ~~strikeout~~ and underline format. These revisions include corrections to minor typographic errors as well as inclusion of clarifying text provided in response to comments received during public review of the draft MND. The conclusion of the environmental document is not affected by these changes. In accordance with the California Environmental Quality Act (CEQA) Section 15073.5 (c)(4), the addition of new information that clarifies, amplifies, or makes insignificant modification does not require recirculation as there are no new impacts and no new mitigation identified. An environmental document need only be recirculated when there is identification of new significant environmental impact or the addition of a new mitigation measure required to avoid a significant environmental impact not previously identified.

BACKGROUND:

In accordance with the federal Clean Water Act, the San Diego Regional Water Quality Control Board (RWQCB) issues Municipal Storm Water National Pollutant Discharge Elimination System (NPDES) Permits (Municipal Permit) to municipalities that own and operate a municipal separate storm sewer system (MS4) that discharges into waters of the U.S. within the San Diego region. The RWQCB issued the first Municipal Permit to the City of San Diego and twenty (20) other municipalities (Co-permittees) in the region in 1990, and has renewed it four times thereafter. In May 2013, the RWQCB adopted the most recent Municipal Permit, Order No. R9-2013-0001, as subsequently amended by Order No. R9-2015-0001 and Order No. R9-2015-0100.

The Municipal Permit requires all development projects, regardless of size, to implement source control Best Management Practices (BMPs) and site design Low Impact Development (LID) practices to minimize the generation of pollutants. While all development projects are required to implement source control and site design practices, the Municipal Permit has additional requirements for development projects that exceed size thresholds and/or fit under specific land use categories. These projects, referred to as Priority Development Projects (PDPs), are required to incorporate structural BMPs into the project plan to reduce the discharge of pollutants, and address potential hydromodification impacts

from changes in flow and sediment supply. Projects that are not classified as PDPs are referred to as Standard Projects.

The Municipal Permit requires the City to implement storm water standards to address storm water pollution associated with private and public development projects during construction and post construction. The City of San Diego developed the first Storm Water Standards Manual in 2002, and updated it in 2008 and 2012 to comply with new requirements in subsequent Municipal Permits. The 2013 Municipal Permit requires the City to update its Storm Water Standards Manual (Manual Update) to incorporate additional requirements.

PROJECT DESCRIPTION:

The Manual Update provides design concepts and methodologies to guide applicants in meeting the requirements of the 2013 Municipal Permit, Provision E.3 and Provision E.4.

The Manual Update, Part 1, addresses expanded and updated post-construction storm water requirements for Standard Projects and PDPs, and provides updated procedures for planning, selecting, and designing structural storm water BMPs based on the performance standards and requirements in the Municipal Permit.

Structural BMPs are engineered facilities that are designed to retain, detain, filter, remove, or prevent the release of pollutants to surface waters from development projects in perpetuity, after construction of a project is completed. Structural BMPs are a type of Low Impact Design that aims to mimic the natural hydrology to manage storm water pollutant on site. Structural BMPs utilize biological, chemical and physical processes to remove pollutants from storm water runoff before it's discharged to water ways. Examples of structural BMPs are bioretention basins, infiltration trenches, rain gardens, vegetated swales, biofiltration basins, and planter boxes.

The Municipal Permit requires all Priority Development Projects (PDP) to implement structural BMPs to retain onsite pollutants contained in the volume of storm water runoff produced from a 24-hour 85th percentile storm event (referred to as Design Capture Volume, or DCV). If it is not technically feasible to implement retention BMPs for the full DCV onsite for a PDP, then the PDP is required to utilize biofiltration BMPs for the remaining volume not reliably retained. If biofiltration BMPs are not technically feasible, then the PDP is required to utilize flow-thru treatment control BMPs to treat runoff leaving the site and participate in alternative compliance to mitigate for the pollutants from the DCV not reliably retained onsite.

All Standard and Priority Development Projects are required to submit project plans for City review to ensure that individual projects comply with the Manual Update requirements. PDPs must submit a Storm Water Quality Management Plan (SWQMP), which includes details of the project's site design, source control, and structural BMPs, as well as BMP operation and maintenance requirements. For public and private projects, plan reviews are conducted by the City's Storm Water Division and Development Services Department Engineering staff, respectively. In addition, Engineering staff also review project submittal packages to ensure that the DS-560: Storm Water Applicability Checklist is filled out correctly; that drainage area delineations are correct; verify that the correct runoff coefficient (C-value) calculations are used; verify hydrology calculations for every drainage area; verify hydraulic calculations; and verify BMP sizing calculations.

The Manual Update categorizes structural BMPs in three categories based on the unit processes utilized in the BMP design. The BMP selection from these categories is largely based on the site conditions.

Infiltration BMPs: BMPs that are designed to retain the full design capture volume. Structural BMPs in this category include the following:

- Infiltration BMPs typically consist of an earthen basin with a flat bottom constructed in naturally pervious soils. Infiltration BMPs capture, store, and infiltrate storm water runoff into native soils.
- Bioretention BMP facilities are vegetated surface water systems that filter water through vegetation and soil, or engineered media prior to infiltrating into native soils.
- Permeable pavement BMPs allow for percolation through void spaces in the pavement surface into subsurface layers. The subsurface layers are designed to provide storage of storm water runoff so that outflows, primarily via infiltration into subgrade soils or release to the downstream conveyance system, can be at controlled rates.

Partial Infiltration BMPs: Infiltration of a significant portion of the DCV may be possible, but site factors may indicate that infiltration of the full DCV is either infeasible or not desirable. Structural BMPs in this category include the following:

- Biofiltration with partial retention BMPs are shallow basins filled with treatment media and drainage rock that manage storm water runoff through infiltration, evapotranspiration, and biofiltration. These BMPs typically have an infiltration storage layer. The volume of biofiltered water above the infiltration storage layer is discharged via underdrain. Other components include a media layer and associated filtration rates, drainage layer with associated in-situ soil infiltration rates, and vegetation.

No Infiltration BMPs: Infiltration of any appreciable volume of the DCV should be avoided. Some incidental volume losses may be possible, but any appreciable quantity of infiltration would introduce undesirable conditions. Structural BMPs in this category include the following:

- Harvest and use BMPs capture and store storm water runoff for later use. Uses of captured water may include irrigation demand, indoor non-potable demand, industrial process water demand, or other demands. Uses of captured water shall not result in runoff to storm drains or receiving waters.
- Biofiltration BMPs are shallow basins filled with treatment media and drainage rock that treat storm water runoff by capturing and detaining inflows prior to controlled release through incidental infiltration, evapotranspiration, or discharge via underdrain or surface outlet structure. Biofiltration BMPs include impermeable liners located at the bottom of the BMP to prevent infiltration.
- Flow-thru treatment control BMPs (vegetated swales, media filters, sand filters, dry extended detention basin, proprietary flow-thru treatment control) are structural, engineered facilities that are designed to remove pollutants from storm water runoff using treatment process that do not incorporate significant biological methods.

Detailed descriptions of the structural BMPs are included in Chapter 5 of the Manual Update. Fact sheets for sizing and designing BMPs are included in Appendix E of the Manual Update. In addition to

satisfying pollutant control requirements, PDPs subject to hydromodification management requirements must provide flow control for post-project runoff to meet the flow control performance standard. Flow control for hydromodification management is typically accomplished using structural BMPs that may include any combination of infiltration basins; bioretention, biofiltration with partial retention, or biofiltration basins; or detention basins. Both storm water pollutant control and flow control for hydromodification management can be achieved within the same structural BMP(s) or by a series of structural BMP(s). Guidance on how to design these structural BMPs to satisfy both pollutant control and hydromodification management requirements is provided in Chapter 6 of the Manual Update.

Notable changes required by the Municipal Permit related to development planning requirements that have been incorporated in the Manual Update, Part 1 include:

- **Priority Development Projects Category:** The size threshold for PDP categories has been reduced from 1 acre to 10,000 square feet of impervious area for commercial, industrial, mixed-use, and public development projects. Additionally, the size threshold for residential PDPs has been reduced from 10 dwelling units to 10,000 square feet of impervious area.
- The RWQCB has ~~announced that it intends to make further~~ adopted amendments to the 2013 Municipal Permit ~~in November 2015 to change~~ on November 18, 2015 via Order No. R9-2015-0100, which changes the PDP categories. The ~~proposed~~ amendments would increase the number of projects considered to be PDPs by including: (1) new and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface; and (2) new development projects or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, that support automotive repair shops or retail gasoline outlets.
- **Pollutant Control Requirements:** PDPs are required to implement structural BMPs to retain the 85th percentile storm event. For situations where on-site retention of the 85th percentile storm volume is not feasible, bio-filtration must be provided to satisfy specific performance standards.
- **Priority Development Project Exemption:** Projects that either (1) redevelop existing paved alleys, streets, or roads OR (2) develop or retrofit paved sidewalks, bicycle lanes, or trails may be exempted from being required to meet PDP requirements if they include green infrastructure design elements in accordance with the USEPA document “*Managing Wet Weather with Green Infrastructure – Municipal Handbook*”. The Manual Update provides further guidance on green streets design requirements for PDP exemptions. New or retrofit paved sidewalks, bicycle lanes, or trails may also be exempt if they are designed and constructed to direct storm water runoff to non-erodible permeable areas or are hydraulically disconnected from paved streets or roads.
- **Hydromodification Management BMP Requirements:** The Manual Update continues to require the current Hydromodification Management criteria on PDPs with the following changes based on new requirements in the ~~2015~~ 2013 Municipal Permit: (a) exemptions from this requirement will be allowed in fewer cases, and exemptions for highly urbanized areas and for a portion of major river reaches are removed; (b) calculations for the increase of runoff volume from impervious surfaces must compare post-project runoff to runoff from a “pre-developed” condition, meaning the condition before existing impervious surfaces were added; and (c) sites that meet criteria for providing a natural source of coarse sediment that is critical for stream sediment replenishment need to either restrict development on those source areas or follow the project specific onsite measures as described in the Manual Update.
- **Alternative Compliance Option:** The Municipal Permit provides off-site Alternative Compliance as an option for PDPs in lieu of implementing on-site structural BMPs to comply with pollutant control and hydromodification management requirements. The off-site alternative compliance may include off-site mitigation options in the following categories:

- Stream or riparian area rehabilitation
- Retrofit of existing infrastructure
- Regional BMPs
- Groundwater recharge
- Water supply augmentation
- Land purchase to preserve floodplain functions

The City intends to implement the alternative compliance program in two phases:

- 1) Phase I: Applicant Implemented Alternative Compliance Projects where the applicant is fully responsible for the project's design, construction, operation, and long-term maintenance. Phase I is included in the Manual Update; however it will be utilized only if the ~~Water Quality Equivalency (WQE) study~~ Watershed Management Area Analysis (WMAA) is approved by the RWQCB executive officer. The required Water Quality Equivalency Study (WQE) has been prepared and approved by the RWQCB. Once the RWQCB approves the WQE WMAA, the City has the discretion to allow PDP projects to utilize Phase I. Implementing Phase 1-Alternative Compliance does not commit the City to implement Phase 2.
- 2) Phase II: Independent Alternative Compliance Projects which includes other options such as in lieu fee or a credit trading system. This phase is in the initial planning stage and is therefore not part of the project being analyzed in this mitigated negative declaration.

Implementation of Phase 1 of an Alternative Compliance Program depends on approval of the Watershed Management Area Analysis and Water Quality Equivalency documents. The RWQCB approved the WQE but has not approved the WMAA as of the date of the updated MND. If alternative compliance is not implemented by the effective date of the Manual Update, individual projects must be designed to meet onsite compliance as required by the Municipal Permit.

The Manual Update, Part 2, includes construction management requirements in accordance with the Municipal Permit. It provides guidance regarding required temporary storm water management controls during the construction phase of development projects.

There are no notable changes related to the construction management provisions in the Municipal Permit with the exception of deletion of the maximum grading limitation and the advanced treatment requirements. Part 2 provides detailed guidance on required BMPs during the construction phase, inspection and documentation requirements, and includes storm water pollution control plan templates.

I. ENVIRONMENTAL SETTING: See attached Initial Study.

II. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas(s): LAND USE (MULTIPLE SPECIES CONSERVATION PROGRAM/MULTI-HABITAT PLANNING AREA), BIOLOGICAL RESOURCES, GEOLOGY, HISTORICAL RESOURCES (ARCHAEOLOGY), HISTORICAL RESOURCES (BUILT ENVIRONMENT), AND PALEONTOLOGICAL RESOURCES. The project proposal requires the implementation of specific mitigation identified in Section V of this Mitigated Negative Declaration (MND). The project as presented avoids or mitigates the potentially significant environmental effects identified, and the preparation of an Environmental Impact Report (EIR) would not be required.

Future public and private development projects required to comply with the Manual Update may require subsequent environmental review for potential impacts in accordance with California Environmental Quality Act (CEQA). Where the subsequent initial study screening process indicates that a future project implementing the Manual Update requirements may have a significant impact on land use (MSCP/MHPA), biological resources, geology, historical resources (archaeology), historical resources (built environment), and/or paleontological resources because of its location, that project would be required to implement the Mitigation Framework in order to demonstrate consistency with this mitigated negative declaration, which would be further disclosed and analyzed in a project-level environmental document and Initial Study.

III. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

IV. MITIGATION, MONITORING AND REPORTING PROGRAM:

LAND USE (MSCP/MHPA, ESL REGULATIONS & HISTORICAL RESOURCES REGULATIONS)

Mitigation Framework (Compliance with Applicable Regulations)

LU-1a: Future projects implemented in accordance with the Project shall be subject to environmental review at the project-level in accordance with the Mitigation Framework HIST-1 (Historical Resources – Archaeology) and HIST-2 (Historical Resources – Built Environment).

Mitigation Framework - MHPA Land Use Adjacency Guidelines

LU-2:

Future projects which are located adjacent to the MHPA shall be subject to environmental review at the project-level in accordance with the Mitigation Framework detailed below. Projects shall incorporate features that demonstrate compliance with the MHPA Land Use Adjacency Guidelines to ensure avoidance or reduction of potential MHPA impacts.

Future projects which are located adjacent to the MHPA shall comply with the Land Use Adjacency Guidelines of the MSCP in terms of land use, drainage, access, toxic substances in runoff, lighting, noise, invasive plant species, grading, and brush management requirements. Mitigation measures include, but are not limited to: sufficient buffers and design features, barriers (rocks, boulders, signage, fencing, and appropriate vegetation) where necessary, lighting directed away from the MHPA, and berms or walls adjacent to commercial or industrial areas and any other use that may introduce construction noise or noise from future development that could impact or interfere with wildlife utilization of the MHPA. The project biologist or City staff meeting the qualifications of a Biologist III would identify specific mitigation measures needed to reduce impacts to below a level of significance. Subsequent environmental review would be required to determine the significance of impacts and compliance with the Land Use Adjacency Guidelines of the MSCP. Prior to approval of any subsequent project within and/or adjacent to the MHPA, the City of San Diego shall identify specific conditions of approval in order to avoid or to reduce potential impacts to the MHPA.

Specific requirements, as applicable to future projects shall include:

- Prior to the issuance of any permits, development areas shall be permanently fenced where development is adjacent to the MHPA to deter the intrusion of people and/or pets into the MHPA open space areas. Signage may be installed as an additional deterrent to human intrusion as required by the City.
- The use of structural and nonstructural best management practices (BMPs), including sediment catchment devices, shall be required to reduce the potential indirect impacts associated with construction to drainage and water quality. Drainage shall be directed away from the MHPA or, if not possible, must not drain directly into the MHPA. Instead, runoff shall flow into sedimentation basins, grassy swales, or mechanical trapping devices prior to draining into the MHPA. Drainage shall be shown on the site plan and reviewed satisfactory to the City Engineer.
- All outdoor lighting adjacent to open space areas shall be shielded to prevent light over-spill off-site. Shielding shall consist of the installation of fixtures that physically direct light away from the outer edges of the road or landscaping, berms, or other barriers at the edge of development that prevent light over spill.
- The landscape plan for the project shall contain no exotic plant/invasive species and shall include an appropriate mix of native species which shall be used adjacent to the MHPA.
- All manufactured slopes must be included within the development footprint and outside the MHPA.
- All brush management areas shall be shown on the site plan and reviewed and approved by the Environmental Designee. Zone 1 brush management areas shall be included within the development footprint and outside the MHPA. Brush management Zone 2 may be permitted within the MHPA (considered impact neutral) but cannot be used as mitigation. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area shall be the responsibility of a homeowners association or other private party.
- Access to the MHPA, if any, shall be directed to minimize impacts and shall be shown on the site plan and reviewed and approved by the Environmental Designee.

Land uses, such as recreation and agriculture, that use chemicals or generate by-products such as manure, that are potentially toxic or impactful to wildlife, sensitive species, habitat, or water quality need to incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. Such measures shall include drainage/detention basins, swales, or holding areas with non-invasive grasses or wetland-type native vegetation to filter out the toxic materials. Regular maintenance should be provided. Where applicable, this requirement shall be incorporated into leases on publicly owned property as leases come up for renewal.

Mitigation Framework for Short-term Impacts to Sensitive Species from Project Construction

Measures necessary for reducing potential construction-related noise impacts during nesting/breeding season to the coastal California gnatcatcher (March 1 and August 15), least Bell's vireo (March 15 and August 15), southwestern willow Flycatcher (May 1 and September 1), the California cactus wren or the burrowing owl shall be incorporated into project-level construction documents to minimize direct impacts on wildlife movement, nesting or foraging activities and shall be addressed in a Biology Letter report submitted for review at the project level. The Biology Letter report shall include recommendations for preconstruction protocol surveys to be conducted during established breeding seasons, construction noise monitoring and implementation of any species specific mitigation plans in order to comply with the FESA, MBTA, Bald and Golden Eagle Protection Act, State Fish and Game Code, and/or the ESL Regulations.

In addition, future project sites may contain trees and shrubs that could support nesting sites for bird species protected under the Migratory Bird Treaty Act (MBTA). Impacts to nesting birds could occur if vegetation clearing were to take place during the avian breeding season (generally February 1 to August 31). The following design measure shall be incorporated into the construction plans to ensure that nesting activities of birds covered by the MBTA would not be significantly impacted by construction-related activities during the nesting season:

Vegetation clearing shall take place outside of the general avian breeding season (February 1-August 31), when feasible. If vegetation clearing must occur during the avian breeding season, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than three days prior to vegetation clearing. Active nests shall be avoided until the young have fledged or the nest is otherwise abandoned. If no active nests are found, clearing can proceed. The results of the pre-construction nesting bird survey shall be reported to the City in a brief memorandum. If no nesting birds have been detected during the preconstruction surveys, then no further measures shall be required.

BIOLOGICAL RESOURCES

Mitigation Framework for Biological Resources

BIO-1: Prior to issuance of any discretionary permit for a future development project implemented in accordance with the Manual Update all projects which could have potentially significant impacts resulting in a reduction in the number of unique, rare, endangered, sensitive, or fully protected species of plants or animals shall be analyzed in accordance with the CEQA Significance Thresholds, which require that site-specific biological resources surveys be conducted in accordance with City of San Diego Biology Guidelines (2012) and MSCP Subarea Plan. Where sensitive biological resources are known or suspected on or adjacent to a proposed project site, a biological assessment shall be performed for that project. Based on available habitat within a future project area, focused presence/absence surveys shall be conducted in accordance with the Biology Guidelines and applicable resource agency survey protocols. Engineering design specifications based on project-level grading and site plans shall be incorporated into the design of future projects to minimize or eliminate direct impacts on sensitive plant and wildlife species consistent with the FESA, MBTA, CESA, MSCP Subarea Plan, and ESL Regulations.

Mitigation Framework for Impacts on Sensitive Upland Habitats

Future projects which have a potential to result in impacts on sensitive upland Tier I, II, IIIA, or IIIB habitats shall implement avoidance and minimization measures consistent with the City Biology Guidelines and MSCP Subarea Plan and provide suitable mitigation in accordance with Table 3 in the City's Biology Guidelines (see Table 1 below) and MSCP Subarea Plan. Future project-level grading and site plans shall incorporate project design features to minimize direct impacts on sensitive vegetation communities including but not limited to riparian habitats, wetlands, maritime succulent scrub, coastal sage scrub, and grasslands consistent with federal, state, and City guidelines. Any required mitigation for impacts on sensitive vegetation communities shall be outlined in a conceptual mitigation plan following the outline provided in the City Biology Guidelines.

Mitigation for impacts on sensitive vegetation communities shall be implemented at the time future development projects are proposed. Project-level analysis shall determine whether the impacts are within or outside the MHPA. Any MHPA boundary adjustments shall be processed by the individual project applicants through the City and Wildlife Agencies during the early project planning stage.

Mitigation for impacts on sensitive upland habitats shall occur in accordance with the MSCP mitigation ratios as specified within the City's Biology Guidelines (City of San Diego 2012). These mitigation ratios are based on the tier level of the vegetation community, the location of the impact, and the location of the mitigation site(s). For example, impacts on lands inside the MHPA and mitigated outside the MHPA would have the highest mitigation ratio, whereas impacts on lands outside the MHPA and mitigated inside the MHPA would have the lowest mitigation ratio.

Mitigation Framework for Impacts to Wetlands

Please refer to Mitigation Framework BIO-2.

Mitigation Framework for Short-term Impacts on Sensitive Species from Project Construction

For future projects adjacent to or within the MHPA, construction noise that exceeds the maximum levels allowed shall be avoided during the breeding seasons for protected avian species such as: coastal California gnatcatcher (March 1-August 15); least Bell's vireo (March 15-September 15); and coastal cactus wren (February 15-August 15). If construction is proposed during the breeding season for these species, USFWS protocol surveys shall be required in order to determine species presence/absence. When applicable, adequate noise reduction measures shall be incorporated.

Additional specific measures necessary for reducing potential indirect impacts on sensitive bird species, including coastal California gnatcatcher, least Bell's vireo, and coastal cactus wren, are further detailed in Mitigation Framework LU-2 and BIO-3.

Table I: Mitigation Ratios for Impacts on Upland Vegetation Communities and Land Cover Types

Tier	Habitat Type	Mitigation Ratios			
TIER I (rare uplands)	Southern Foredunes			Location of Preservation	
	Torrey Pines Forest			Inside	Outside
	Coastal Bluff Scrub	Location	Inside	2:1	3:1
	Maritime Succulent Scrub	of Impact	Outside	1:1	2:1
	Maritime Chaparral				
	Scrub Oak Chaparral				
	Native Grassland				
	Oak Woodlands				
TIER II (uncommon uplands)	Diegan Coastal Sage Scrub (CSS)			Location of Preservation	
	CSS/Chaparral			Inside	Outside
		Location	Inside*	1:1	2:1
		of Impact	Outside	1:1	1.5:1
TIER IIIA (common uplands)	Chamise Chaparral			Location of Preservation	
	Southern Mixed Chaparral			Inside	Outside
		Location	Inside*	2:1 1:1	3:1 1.5:1
		of Impact	Outside	4:1 0.5:1	2:1 1:1
TIER IIIB (common uplands)	Non-native Grassland			Location of Preservation	
				Inside	Outside
		Location	Inside*	1:1	1.5:1
		of Impact	Outside	0.5:1	1:1
Notes:					
For all Tier I impacts, the mitigation could (1) occur within the MHPA portion of Tier I or (2) occur outside of the MHPA within the affected habitat type (in-kind).					
For impacts on Tier II, IIIA, and IIIB habitats, the mitigation could (1) occur within the MHPA portion of Tiers I – III (out-of-kind) or (2) occur outside of the MHPA within the affected habitat type (in-kind). Project-specific mitigation will be subject to applicable mitigation ratios at the time of project submittal.					

Mitigation Framework for Wetlands

Future projects which cannot demonstrate avoidance of impacts on wetlands/jurisdictional resources shall be required to implement the following Mitigation Framework:

BIO-2: To reduce potential direct impacts on City, state, and federally regulated wetlands, all subsequent projects developed in accordance with the Manual Update shall be required to comply with ACOE CWA Section 404 requirements and special conditions, RWQCB in accordance with Section 401 of the CWA, CDFW Section 1602 Streambed Alteration Agreement requirements and special conditions, and the City of San Diego ESL Regulations for minimizing impacts on wetlands. Achieving consistency with these regulations for impacts on wetlands and special aquatic sites would reduce potential impacts on regulated wetlands and provide compensatory mitigation (as required) to ensure no net loss of wetland habitats. In addition, the USFWS would be involved under Section 7 of the FESA during consultation initiated by the ACOE during the 404 permit process if federal listed species are present. If there is no federal nexus to jurisdictional waters, then a Section 10(A) authorization from USFWS would be required to cover any potential effects on federal listed species.

Prior to obtaining discretionary permits for future actions that are subject to the ESL Regulations, and/or where the CEQA review has determined that there may be a significant impact on other biological resources considered sensitive under CEQA, a site-specific biological resources survey shall be completed in accordance with City of San Diego Biology Guidelines. In addition, a preliminary or final jurisdictional waters/wetlands delineation of the project site shall be completed following the methods outlined in the ACOE's 1987 *Wetlands Delineation Manual*, the 2008 *Regional Supplement to the Corps of Engineers Delineation Manual for the Arid West Region*, and any required updated or additional standards. A determination of the presence/absence and boundaries of any waters of the U.S. and waters of the state shall also be completed following the appropriate ACOE guidance documents for determining the OHWM boundaries. The limits of any riparian habitats on-site under the sole jurisdiction of CDFW shall also be delineated, as well as any special aquatic sites (excluding vernal pools) that may not meet federal jurisdictional criteria but are regulated by the RWQCB. Engineering design specifications based on project-level grading and site plans shall be incorporated into the project design to minimize direct impacts to wetlands, jurisdictional waters, riparian habitats, and vernal pools consistent with federal, state, and City guidelines. Any required mitigation for proposed impacts shall be outlined in a conceptual wetland mitigation plan prepared in accordance with the City's Biology Guidelines (2012).

Additionally, any impacts on wetlands in the City of San Diego would require a deviation from the ESL wetland regulations. Under the wetland deviation process, development proposals that have wetland impacts shall be considered only pursuant to one of three options: Essential Public Project, Economic Viability Option, or Biologically Superior Option. ESL Regulations require that impacts on wetlands be avoided. Unavoidable impacts on wetlands shall be minimized to the maximum extent practicable and mitigated as follows:

- As part of the project-specific environmental review pursuant to CEQA, all unavoidable wetland impacts shall be analyzed, and mitigation shall be required in accordance with ratios shown in Tables 2a and 2b below. Mitigation shall be based on the impacted type of wetland and project design. Mitigation shall prevent any net loss of wetland functions and values of the impacted wetland.

- For the Biologically Superior Option, the project shall include avoidance, minimization, and compensatory measures, which would result in a biologically superior net gain in overall function and values of (a) the type of wetland resource being impacted and/or (b) the biological resources to be conserved. The Biologically Superior Option mitigation shall include either (1) standard mitigation per Table 2a, including wetland creation or restoration of the same type of wetland resource that is being impacted that results in high quality wetlands; and a biologically superior project design whose avoided area(s) (i) is in a configuration or alignment that optimizes the potential long-term biological viability of the on-site sensitive biological resources, and/or (ii) conserves the rarest and highest quality on-site biological resources; or (2) for a project not considered consistent with “1” above, extraordinary mitigation per Table 2b is required.

**Table 2a: City of San Diego Wetland Mitigation Ratios
(With Biologically Superior Design)**

<i>Vegetation Community</i>	<i>Mitigation Ratio</i>
Riparian	2:1 to 3:1
Vernal pool ¹	2:1 to 4:1
Basin with fairy shrimp ¹	2:1 to 4:1
Freshwater marsh	2:1
Notes:	
¹ The City does not have “take” authority for vernal pool species. A draft vernal pool HCP is currently being prepared by the City in coordination with the Wildlife Agencies. If adopted, the City would have “take” authority for the vernal pool species occurring within the vernal pool HCP areas.	

**Table 2b: City of San Diego Wetland Mitigation Ratios
(Without Biologically Superior Design Outside the Coastal Zone)**

<i>Vegetation Community</i>	<i>Mitigation Ratio</i>
Riparian	4:1 to 6:1
Vernal pool ¹	4:1 to 8:1
Basin with fairy shrimp ¹	4:1 to 8:1
Freshwater marsh	4:1
Notes:	
¹ The City does not have “take” authority for vernal pool species. A draft vernal pool HCP is currently being prepared by the City in coordination with the Wildlife Agencies. If adopted, the City would have “take” authority for the vernal pool species occurring within the vernal pool HCP areas.	

As part of any future project-specific environmental review pursuant to CEQA, all unavoidable wetlands impacts (both temporary and permanent) shall be analyzed and mitigation required in accordance with the City Biology Guidelines; mitigation shall be based on the impacted type of wetland habitat. Mitigation shall prevent any net loss of wetland functions and values of the impacted wetland. Operational definitions of the four types of activities that constitute wetland mitigation under the ESL Regulations are as follows:

- Wetland creation is an activity that results in the formation of new wetlands in an upland area. An example is excavation of uplands adjacent to existing wetlands and the establishment of native wetland vegetation.
- Wetland restoration is an activity that re-establishes the habitat functions of a former wetland. An example is the excavation of agricultural fill from historic wetlands and the re-establishment of native wetland vegetation.
- Wetland enhancement is an activity that improves the self-sustaining habitat functions of an existing wetland. An example is removal of exotic species from existing riparian habitat.
- Wetland acquisition may be considered in combination with any of the three mitigation activities above.

Wetland enhancement and wetland acquisition focus on the preservation or the improvement of existing wetland habitat and function and do not result in an increase in wetland area; therefore, a net loss of wetland may result. As such, acquisition and/or enhancement of existing wetlands shall be considered as partial mitigation only for any balance of the remaining mitigation requirement after restoration or creation if wetland acreage is provided at a minimum of a 1:1 ratio.

For permanent wetland impacts that are unavoidable and minimized to the maximum extent feasible, mitigation shall consist of creation of new in-kind habitat to the fullest extent possible and at the appropriate ratios. If on-site mitigation is not feasible, then at least a portion of the mitigation must occur within the same watershed. The City's Biology Guidelines and MSCP Subarea Plan require that impacts on wetlands, including vernal pools, shall be avoided, and that a sufficient wetland buffer shall be maintained, as appropriate, to protect resource functions/values. The project specific biology report shall include an analysis of on-site wetlands (including City, state, and federal jurisdiction analysis) and, if present, include project alternatives that fully/substantially avoid wetland impacts. Detailed evidence supporting why there is no feasible less environmentally damaging location or alternative to avoid any impacts must be provided for City staff review, as well as a mitigation plan that specifically identifies how the project is to compensate for any unavoidable impacts. A conceptual wetland mitigation plan (which includes identification of the mitigation site) shall be approved by City staff prior to the release of the draft environmental document. Avoidance shall be the first requirement; mitigation shall only be used for impacts clearly demonstrated to be unavoidable.

Prior to the commencement of any construction-related activities on-site for projects impacting wetland habitat (including earthwork and fencing), the applicant shall provide evidence of the following to the Mayor-appointed Environmental Designee prior to any construction activity:

- Compliance with ACOE Section 404 nationwide permit;
- Compliance with the RWQCB Section 401 Water Quality Certification; and
- Compliance with the CDFW Section 1601/1603 Streambed Alteration Agreement.

Mitigation Framework for Migratory Wildlife

BIO-3: Mitigation for future projects to reduce potentially significant impacts that would interfere with the nesting, foraging, or movement of wildlife species shall be identified in a site-specific biological resources report prepared in accordance with City of San Diego Biology Guidelines, as further detailed in BIO-1 during the discretionary review process. The biology report shall include results of protocol surveys and recommendations for additional measures to be implemented during construction-related activities; shall identify the limits of any identified local-scale wildlife corridors or habitat linkages and analyze potential impacts in relation to local fauna, and the effects of conversion of vegetation communities to minimize direct impacts on sensitive wildlife species and to provide for continued wildlife movement through the corridor.

Measures that shall be incorporated into project-level construction documents to minimize direct impacts on wildlife movement, nesting, or foraging activities shall be addressed in the biology report and shall include recommendations for preconstruction protocol surveys to be conducted during established breeding seasons, construction noise monitoring and implementation of any species-specific mitigation plans in order to comply with the FESA, MBTA, State Fish and Game Code, and/or the ESL Regulations.

GEOLOGY

Mitigation Framework for Geology

GEO-1: Future development projects implemented in accordance with the Manual Update, including projects involving infiltration of runoff into the ground through pervious/porous materials shall be required to prepare a geotechnical evaluation for review and approval by the City Engineer. Submittal of site specific geotechnical evaluations shall be completed in accordance with the City's Municipal Code requirements. Geotechnical evaluations of all potential project sites shall be required in order to determine the feasibility of the sites for infiltration in accordance with the Manual Update.

HISTORICAL RESOURCES

Mitigation Framework for Historical Resources (Archaeology)

Future projects which have the potential to impact Historical Resources (Archaeology) shall be subject to review in accordance with the Mitigation Framework detailed below. For future projects which are not within a recorded archaeological site requiring further analysis, but have a potential to impact unknown resources, only monitoring shall be required. In those cases, the archaeological monitoring program included after STEP 5 of the evaluation program shall be implemented.

HIST-1: Future projects implemented in accordance with the Project that could directly affect an archaeological resource, shall be subject to environmental review at the project-level in accordance with the Mitigation Framework to determine: (1) the presence of archaeological resources and (2) the appropriate mitigation for any significant resources which may be impacted by a development activity. Sites may include, but are not limited to, residential and commercial properties, privies, trash pits, building foundations, and industrial features representing the contributions of people from diverse socio-economic and ethnic backgrounds. Sites may also include resources associated with pre-historic Native American activities.

INITIAL DETERMINATION

The environmental analyst will determine the likelihood for the project site to contain historical resources by reviewing site photographs and existing historic information (e.g. Archaeological Sensitivity Maps, the Archaeological Map Book, and the City's "Historical Inventory of Important Architects, Structures, and People in San Diego") and conducting a site visit. If there is any evidence that the site contains archaeological resources, then a historic evaluation consistent with the City Guidelines would be required. All individuals conducting any phase of the archaeological evaluation program must meet professional qualifications in accordance with the City Guidelines.

STEP 1:

Based on the results of the Initial Determination, if there is evidence that the site contains historical resources, preparation of a historic evaluation is required. The evaluation report would generally include background research, field survey, archaeological testing and analysis. Before actual field reconnaissance would occur, background research is required which includes a record search at the SCIC at San Diego State University and the San Diego Museum of Man. A review of the Sacred Lands File maintained by the NAHC must also be conducted at this time. Information about existing archaeological collections should also be obtained from the San Diego Archaeological Center and any tribal repositories or museums.

In addition to the record searches mentioned above, background information may include, but is not limited to: examining primary sources of historical information (e.g., deeds and wills), secondary sources (e.g., local histories and genealogies), Sanborn Fire Maps, and historic cartographic and aerial photograph sources; reviewing previous archaeological research in similar areas, models that predict site distribution, and archaeological, architectural, and historical site inventory files; and conducting informant interviews. The results of the background information would be included in the evaluation report.

Once the background research is complete, a field reconnaissance must be conducted by individuals whose qualifications meet the standards outlined in the City Guidelines. Consultants are encouraged to employ innovative survey techniques when conducting enhanced reconnaissance, including, but not limited to, remote sensing, ground penetrating radar, and other soil resistivity techniques as determined on a case-by-case basis. Native American participation is required for field surveys when there is likelihood that the project site contains prehistoric archaeological resources or traditional cultural properties. If through background research and field surveys historical resources are identified, then an evaluation of significance must be performed by a qualified archaeologist.

STEP 2:

Once a historical resource has been identified, a significance determination must be made. It should be noted that tribal representatives and/or Native American monitors will be involved in

making recommendations regarding the significance of prehistoric archaeological sites during this phase of the process. The testing program may require reevaluation of the proposed project in consultation with the Native American representative which could result in a combination of project redesign to avoid and/or preserve significant resources as well as mitigation in the form of data recovery and monitoring (as recommended by the qualified archaeologist and Native American representative). An archaeological testing program will be required which includes evaluating the horizontal and vertical dimensions of a site, the chronological placement, site function, artifact/ecofact density and variability, presence/absence of subsurface features, and research potential. A thorough discussion of testing methodologies, including surface and subsurface investigations, can be found in the City Guidelines.

The results from the testing program will be evaluated against the Significance Thresholds found in the Guidelines. If significant historical resources are identified within the Area of Potential Effect, the site may be eligible for local designation. At this time, the final testing report must be submitted to Historical Resources Board staff for eligibility determination and possible designation. An agreement on the appropriate form of mitigation is required prior to distribution of a draft environmental document. If no significant resources are found, and site conditions are such that there is no potential for further discoveries, then no further action is required. Resources found to be non-significant as a result of a survey and/or assessment will require no further work beyond documentation of the resources on the appropriate Department of Parks and Recreation (DPR) site forms and inclusion of results in the survey and/or assessment report. If no significant resources are found, but results of the initial evaluation and testing phase indicates there is still a potential for resources to be present in portions of the property that could not be tested, then mitigation monitoring is required.

STEP 3:

Preferred mitigation for historical resources is to avoid the resource through project redesign. If the resource cannot be entirely avoided, all prudent and feasible measures to minimize harm shall be taken. For archaeological resources where preservation is not an option, a Research Design and Data Recovery Program is required, which includes a Collections Management Plan for review and approval. The data recovery program shall be based on a written research design and is subject to the provisions as outlined in CEQA, Section 21083.2. The data recovery program must be reviewed and approved by the City's Environmental Analyst prior to draft CEQA document distribution. Archaeological monitoring may be required during building demolition and/or construction grading when significant resources are known or suspected to be present on a site, but cannot be recovered prior to grading due to obstructions such as, but not limited to, existing development or dense vegetation.

A Native American observer must be retained for all subsurface investigations, including geotechnical testing and other ground-disturbing activities, whenever a Native American Traditional Cultural Property or any archaeological site located on City property or within the Area of Potential Effect of a City project would be impacted. In the event that human remains are encountered during data recovery and/or a monitoring program, the provisions of Public Resources Code Section 5097 must be followed. These provisions are outlined in the Mitigation Monitoring and Reporting Program (MMRP) included in the environmental document. The Native American monitor shall be consulted during the preparation of the written report, at which time they may express concerns about the treatment of sensitive resources. If the Native American community requests participation of an observer for subsurface investigations on private property, the request shall be honored.

STEP 4:

Archaeological Resource Management reports shall be prepared by qualified professionals as determined by the criteria set forth in Appendix B of the Guidelines. The discipline shall be tailored to the resource under evaluation. In cases involving complex resources, such as traditional cultural properties, rural landscape districts, sites involving a combination of prehistoric and historic archaeology, or historic districts, a team of experts will be necessary for a complete evaluation.

Specific types of historical resource reports are required to document the methods (see Section III of the Guidelines) used to determine the presence or absence of historical resources; to identify the potential impacts from proposed development and evaluate the significance of any identified historical resources; to document the appropriate curation of archaeological collections (e.g. collected materials and the associated records); in the case of potentially significant impacts to historical resources, to recommend appropriate mitigation measures that would reduce the impacts to below a level of significance; and to document the results of mitigation and monitoring programs, if required.

Archaeological Resource Management reports shall be prepared in conformance with the California Office of Historic Preservation "Archaeological Resource Management Reports: Recommended Contents and Format" (see Appendix C of the Guidelines), which will be used by Environmental Analysis Section staff in the review of archaeological resource reports. Consultants must ensure that archaeological resource reports are prepared consistent with this checklist. This requirement will standardize the content and format of all archaeological technical reports submitted to the City. A confidential appendix must be submitted (under separate cover) along with historical resources reports for archaeological sites and traditional cultural properties containing the confidential resource maps and records search information gathered during the background study. In addition, a Collections Management Plan shall be prepared for projects which result in a substantial collection of artifacts and must address the management and research goals of the project and the types of materials to be collected and curated based on a sampling strategy that is acceptable to the City. Appendix D (Historical Resources Report Form) may be used when no archaeological resources were identified within the project boundaries.

STEP 5:

For Archaeological Resources: All cultural materials, including original maps, field notes, non-burial related artifacts, catalog information, and final reports recovered during public and/or private development projects must be permanently curated with an appropriate institution, one which has the proper facilities and staffing for insuring research access to the collections consistent with state and federal standards. In the event that a prehistoric and/or historic deposit is encountered during construction monitoring, a Collections Management Plan would be required in accordance with the project MMRP. The disposition of human remains and burial related artifacts that cannot be avoided or are inadvertently discovered is governed by state (i.e., Assembly Bill 2641 and California Native American Graves Protection and Repatriation Act of 2001) and federal (i.e., Native American Graves Protection and Repatriation Act) law, and must be treated in a dignified and culturally appropriate manner with respect for the deceased individual(s) and their descendants. Any human bones and associated grave goods of Native American origin shall be turned over to the appropriate Native American group for repatriation.

Arrangements for long-term curation must be established between the applicant/property owner and the consultant prior to the initiation of the field reconnaissance, and must be included in the archaeological survey, testing, and/or data recovery report submitted to the City for review and approval. Curation must be accomplished in accordance with the California State Historic Resources Commission's Guidelines for the Curation of Archaeological Collection (dated May 7, 1993) and, if federal funding is involved, 36 Code of Federal Regulations 79 of the Federal Register. Additional information regarding curation is provided in Section II of the Guidelines.

Historical Resources (Archeological Monitoring Program)

I. Prior to Permit Issuance or Bid Opening/Bid Award

- A. Entitlements or City Plan Check Processing
 - 1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.
- B. Letters of Qualification have been submitted to ADD
 - 1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
 - 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
 - 3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

- A. Verification of Records Search
 - 1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
 - 2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
 - 3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4 mile radius.
- B. PI Shall Attend Precon Meetings
 - 1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

- a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)
The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
3. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
 - b. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).
 - c. MMC shall notify the PI that the AME has been approved.
4. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.
5. Approval of AME and Construction Schedule
After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
 1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**
 2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
 3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.

4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
- B. Discovery Notification Process
1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
 2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
 3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
 4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.
- C. Determination of Significance
1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM and RE. ADRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume. **Note: If a unique archaeological site is also an historical resource as defined in CEQA Section 15064.5, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**
 - (1). Note: For pipeline trenching and other linear projects in the public Right-of-Way, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."
 - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.
 - (1). Note: For Pipeline Trenching and other linear projects in the public Right-of-Way, if the deposit is limited in size, both in length and depth; the information value is limited and is not associated with any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.
 - (2). Note, for Pipeline Trenching and other linear projects in the public Right-of-Way, if significance can not be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources - Pipeline Trenching and other Linear Projects in the Public Right-of-Way

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities or for other linear project types within the Public Right-of-Way including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting
 - a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
 - b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
 - c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.
 - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

- A. Notification
 1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
 2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
- B. Isolate discovery site
 1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
 2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.
 3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
 1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.

2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission, OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, THEN
 - c. To protect these sites, the landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement; or
 - (3) Record a document with the County.
 - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.
- D. If Human Remains are **NOT** Native American
 1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
 2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
 3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV – Discovery of Human

Remains. Discovery of human remains shall always be treated as a significant discovery.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains shall be followed.

- d. The PI shall immediately contact the RE and MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe as a result of delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**

- a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
- b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection C.
3. The PI shall submit the Accession Agreement and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.
4. The RE or BI, as appropriate shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.
5. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

Mitigation Framework for Historical Resources (Built Environment)

Future projects which result in, or have the potential to impact Historical Resources (Built Environment) shall be subject to review in accordance with the Mitigation Framework detailed below.

HIST-2: Consultation with Historical Resources Staff shall be required when a future Project, located within the public right-of-way is within a Historic District and requires implementation of this mitigation measure. The future project shall be reviewed for compliance with the Historical Resources Guidelines and Regulations. Subsequent to project review and as directed by Historical Resources Staff, the following paragraph shall be included in the subsequent environmental document and include the Historic District name, boundary and district guidelines, if applicable shall be inserted as noted below in [brackets]:

The project is located within the [[insert District name]] Historic District, bounded by [[enter District boundary]] All work within the District boundary must be consistent with the City's Historical Resources Regulations, the U.S. Secretary of the Interior's Standards and the [[enter district guidelines if applicable]] District Design Guidelines. The following mitigation measures are required within the District boundary and shall ensure consistency with these regulations, Standards and guidelines.

- A. Prior to beginning any work at the site, a Pre Construction meeting that includes Historic Resources and MMC staff shall be held at the project site to review these mitigation measures and requirements within the District boundary.

- B. A Historic Sidewalk Stamp Inventory prepared by a qualified historic consultant or archaeologist and approved by HRB staff is required prior to the Pre-Construction (Pre-Con) meeting. The Inventory shall include photo documentation of all existing stamps within the project area keyed to a project site plan.
- C. Existing sidewalk stamps shall be preserved in place. Where existing sidewalk stamps must be impacted to accommodate right-of-way improvements, the following actions are required:
 - 1. A mold of the sidewalk stamp will be made to allow reconstruction of the stamp if destroyed during relocation.
 - 2. The sidewalk stamp shall be saw-cut to preserve the stamp in its entirety; relocated as near as possible to the original location; and set in the same orientation.
 - 3. If the sidewalk stamp is destroyed during relocation, a new sidewalk stamp shall be made from the mold taken and relocated as near as possible to the original location and set in the same orientation.
- D. No new sidewalk stamps shall be added by any contractor working on the project.
- E. Existing historic sidewalk, parkway and street widths shall be maintained. Any work that requires alteration of these widths shall be approved by Historic Resources staff.
- F. Existing historic curb heights and appearance shall be maintained. Any work that requires alteration of the existing height or appearance shall be approved by Historic Resources staff.
- G. Sections of sidewalk which may be impacted by the project shall be replaced in-kind to match the historic color, texture and scoring pattern of the original sidewalks. If the original color, scoring pattern or texture is not present at the location of the impact, the historically appropriate color, texture and scoring pattern found throughout the district shall be used.
- H. When new or replacement truncated domes are required at corner curb ramps the preferred replacement color shall be dark gray unless a color consultation has been conducted with Historical Resources Staff demonstrating compliance with the Standards and which shall not adversely affect the historic district.
- I. Existing historic lighting, such as acorn lighting shall remain. New lighting shall be consistent with existing lighting fixtures, or fixtures specified in any applicable District Design Guidelines.
- J. Existing mature street trees shall remain. New street trees shall be consistent with the prevalent mature species in the District and/or species specified in any applicable District Design Guidelines.
- K. Any walls located within the right-of-way or on private property are considered historic and may not be impacted without prior review and approval by Historic Resources staff.

PALEONTOLOGICAL RESOURCES

Mitigation Framework for Paleontological Resources

Future projects implemented in accordance with the Project which result in, or have the potential to impact Paleontological Resources shall be subject to review in accordance with the Mitigation Framework for Paleontological Resources further detailed below.

PALEO-1: Prior to the approval of subsequent projects, the City shall determine the potential for impacts to paleontological resources based on review of the project and recommendations of a project-level analysis completed in accordance with the steps presented below. Future projects shall be sited and designed to minimize impacts on paleontological resources in accordance with the City's Paleontological Resources Guidelines and CEQA Significance Thresholds. The requirement for monitoring to reduce potential impacts to paleontological resources shall be identified the project-level for future subsequent projects that are subject to environmental. In those cases, the paleontological monitoring program provided at the end of STEP 1.B. shall be implemented during construction activities.

I. Prior to Project Approval

- A. The environmental analyst shall complete a project-level analysis of potential impacts on paleontological resources. The analysis shall include a review of the applicable USGS Quad maps to identify the underlying geologic formations, and shall determine if construction of a project would:
- Require over 1,000 cubic yards of excavation and/or a 10-foot, or greater, depth in a high resource potential geologic deposit/formation/rock unit.
 - Require over 2,000 cubic yards of excavation and/or a 10-foot, or greater, depth in a moderate resource potential geologic deposit/formation/rock unit.
 - Require construction within a known fossil location or fossil recovery site. Resource potential within a formation is based on the Paleontological Monitoring Determination Matrix.
- B. If construction of a project would occur within a formation with a moderate to high resource potential, monitoring during construction would be required.
- Monitoring is always required when grading on a fossil recovery site or a known fossil location.
 - Monitoring may also be needed at shallower depths if fossil resources are present or likely to be present after review of source materials or consultation with an expert in fossil resources (e.g., the San Diego Natural History Museum).
 - Monitoring may be required for shallow grading (<10 feet) when a site has previously been graded and/or unweathered geologic deposits/formations/ rock units are present at the surface.

Monitoring is not required when grading documented artificial fill. When it has been determined that a future project has the potential to impact a geologic formation with a high or moderate fossil sensitivity rating a Paleontological MMRP shall be implemented during construction grading activities.

Paleontological Resources Monitoring Program

I. Prior to Permit Issuance or Bid Opening/Bid Award

A. Entitlements Plan Check

1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.
- B. Letters of Qualification have been submitted to ADD
 1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
 3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

- A. Verification of Records Search
 1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
 2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
- B. PI Shall Attend Precon Meetings
 1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
 2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)
The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the paleontological monitoring program.
 3. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored including the delineation of grading/excavation limits. Monitoring shall begin at depths below 10 feet from existing grade or as determined by the PI in consultation with MMC. The determination shall be based on site specific records search data which supports monitoring at depths less than ten feet.
 - b. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
 - c. MMC shall notify the PI that the PME has been approved.

4. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.
5. Approval of PME and Construction Schedule

After approval of the PME by MMC, the PI shall submit to MMC written authorization of the PME and Construction Schedule from the CM.

III. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
 1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, jacking and receiving pits, services and all other appurtenances associated with underground utilities as identified on the PME that could result in impacts to formations with high and/or moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
 2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
 3. The monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
- B. Discovery Notification Process
 1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
 2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
 3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
- C. Determination of Significance
 1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval of the program from MMC, MC and/or RE. PRP

and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume.

(1). Note: For pipeline trenching projects only, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."

c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.

d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

(1). Note: For Pipeline Trenching Projects Only. If the fossil discovery is limited in size, both in length and depth; the information value is limited and there are no unique fossil features associated with the discovery area, then the discovery should be considered not significant.

(2). Note, for Pipeline Trenching Projects Only: If significance can not be determined, the Final Monitoring Report and Site Record shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance.

1. Procedures for documentation, curation and reporting

a. One hundred percent of the fossil resources within the trench alignment and width shall be documented in-situ photographically, drawn in plan view (trench and profiles of side walls), recovered from the trench and photographed after cleaning, then analyzed and curated consistent with Society of Invertebrate Paleontology Standards. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact and so documented.

b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.

c. The PI shall be responsible for recording (on the appropriate forms for the San Diego Natural History Museum) the resource(s) encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines. The forms shall be submitted to the San Diego Natural History Museum and included in the Final Monitoring Report.

d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.

- a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via the RE via fax by 8AM on the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact the RE and MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend work becomes necessary during the course of construction
 - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - 2. The RE, or BI, as appropriate, shall notify MMC immediately.
 - C. All other procedures described above shall apply, as appropriate.

V. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
 - 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring,
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
 - 2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or, for preparation of the Final Report.
 - 3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.
 - 4. MMC shall provide written verification to the PI of the approved report.
 - 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Fossil Remains
 - 1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.

- C. Curation of artifacts: Deed of Gift and Acceptance Verification
 - 1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
 - 2. The PI shall submit the Deed of Gift and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.
 - 3. The RE or BI, as appropriate shall obtain signature on the Deed of Gift and shall return to PI with copy submitted to MMC.
 - 4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
 - 1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC of the approved report.
 - 2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

Federal Government

Naval Facilities Engineering Command, SW Division, Environmental Planning (12)
US Environmental Protection Agency (19)
US Fish and Wildlife Service (23)
US Army Corps of Engineers (26)

State of California

Caltrans, District 11 (31)
California Department of Fish and Wildlife (32)
Cal EPA (37A)
California Natural Resources Agency (43)
Regional Water Quality Control Board: Region 9 (44)
Department of Water Resources (45)
State Clearinghouse (46)
California Coastal Commission, San Diego District (47)
California Transportation Commission (51A)
State Water Resources Control Board (55)
Native American Heritage Commission (56)
Planning and Land Use (68)
Land & Water Quality Division (76)
State Parks – Southern Service Center (428)
State Parks – Tijuana River Natural Estuarine Reserve (229)
State Parks – Environmental Coordinator (229A)

County of San Diego

Air Pollution Control District (65)
Department of Planning and Land Use (68)
Department of Public Works (72)

County Water Authority (73)
Department of Environmental Health (75)
County Parks Department (232)

City of San Diego

Mayor's Office (11A/91)
Council President Lightner, District 1
Councilmember Zapf, District 2
Councilmember Gloria, District 3
Councilmember Cole, District 4
Councilmember Kersey, District 5
Councilmember Cate, District 6
Councilmember Sherman, District 7
Councilmember Alvarez, District 8
Council President Pro Tem Emerald, District 9

City Attorney's Office

Heather Stroud
Shannon Thomas

Storm Water Department (Applicant Department)

Sumer Hasenin (MS 1900)
Jonard Talamayan (MS 1900)

Planning Department

Myra Herrmann
Kristy Forburger
Jeff Harkness
Kelley Stanco/ Historical Resources Board

Development Services Department

Louis Shultz
Mehdi Rastakhiz, Water/Wastewater Review

Park and Recreation Department

Chris Zirkle
Paul Jacob

Environmental Services Department

Lisa Wood

General Services Department (MS 9B/92)

Public Utilities Department

Nicole McGinnis
Keli Balo

Public Works Department

Carrie Purcell

Real Estate Assets Department

Cybele Thompson

Wetland Advisory Board

Anita Eng

Housing Commission

Wendy Dewitt (MS 49N)

Sustainable Energy Advisory Board

All City Libraries (81A-81KK)

Balboa Branch (81B)
Beckwourth Branch (81C)
Benjamin Branch (81D)
Carmel Mountain Ranch Branch (81E)
Carmel Valley Ranch Branch (81F)
Central Library (81A)
City Heights/Weingart Branch (81G)
Clairemont Branch (81H)
College-Rolando Branch (81I)
Kensington-Normal Heights Branch (81K)
Library Department (81)
La Jolla/Riford Branch (81L)
Linda Vista Branch (81M)
Logan Heights Branch (81N)
Malcolm X Library & Performing Arts Center (81O)
Mira Mesa Branch (81P)
Mission Hills Branch (81Q)
Mission Valley Branch (81R)
North Clairemont Branch (81S)
North Park Branch (81T)
North University Branch (81JJJ)
Oak Park Branch (81U)
Ocean Beach Branch (81V)
Otay Mesa-Nestor Branch (81W)
Pacific Beach/Taylor Branch (81X)
Paradise Hills Branch (81Y)
Point Loma/Hervey Branch (81Z)
Rancho Bernardo Branch (81AA)
Rancho Penasquitos Branch (81BB)
San Carlos Branch (81DD)
San Ysidro Branch (81EE)
Scripps Miramar Ranch Branch (81FF)
Serra Mesa Branch (81GG)
Skyline Hills Branch (81HH)
Tierrasanta Branch (81II)
University Community Branch (81JJ)
University Heights Branch (81KK)

Other Government Agencies

City of Chula Vista (94)
City of Coronado (95)
City of Del Mar (96)
City of El Cajon (97)
City of Escondido (98)
City of Imperial Beach (99)
City of La Mesa (100)
City of Lemon Grove (101)
City of National City (102)
City of Poway (103)
City of Santee (104)
City of Solana Beach (105)
SANDAG (108)
San Diego Unified Port District (109)
San Diego County Regional Airport Authority (110)
Metropolitan Transit System (112/115)
San Diego Gas and Electric (114)
San Dieguito River Park (116)
Civic San Diego (448)

Community Groups, Associations, Boards, and Committees

Community Planners Committee (194)
Balboa Park Committee (226 and 226A)
Black Mountain Ranch-Subarea I (226C)
Otay Mesa-Nestor Planning Committee (228)
Otay Mesa Planning Committee (235)
Clairemont Mesa Planning Committee (248)
Greater Golden Hill Planning Committee (259)
Serra Mesa Planning Committee (263A)
Kearney Mesa Community Planning Group (265)
Linda Vista Community Planning Committee (267)
La Jolla Community Planning Association (275)
City Heights Area Planning Committee (287)
Kensington-Talmadge Planning Committee (290)
Normal Heights Community Planning Committee (291)
Eastern Area Planning Committee (302)
Midway Pacific Highway Community Planning Committee (307)
Mira Mesa Community Planning Committee (310)
Mission Beach Precise Planning Board (325)
Mission Valley Planning Group (331)
Navajo Community Planners, Inc. (336)
Carmel Valley Community Planning Board (350)
Del Mar Mesa Community Planning Board (361)
North Park Planning Committee (363)
Ocean Beach Planning Board (367)
Old Town Community Planning Board (368)
Pacific Beach Community Planning Committee (375)
Pacific Highlands Ranch-Subarea III (377A)

Rancho Penasquitos Planning Board (380)
Peninsula Community Planning Board (390)
Rancho Bernardo Community Planning Board (400)
Sabre Springs Community Planning Group (406B)
San Pasqual-Lake Hodges Planning Group (426)
San Ysidro Planning and Development Group (433)
Scripps Miramar Ranch Planning Group (437)
Miramar Ranch North Planning Committee (439)
Skyline Paradise Hills Planning Committee (443)
Torrey Hills Community Planning Board (444A)
Southeastern San Diego Planning Committee (449)
Encanto Neighborhoods Community Planning Group (449A)
College Area Community Planning Board (456)
Tierrasanta Community Council (462)
Torrey Highlands – Subarea IV (467)
Torrey Pines Community Planning Board (469)
University City Community Planning Group (480)
Uptown Planners (498)

Town/Community Councils

Town Council Presidents Association (197)
Barrio Station, Inc. (241)
Downtown Community Council (243)
Harborview Community Council (245)
Clairemont Town Council (257)
Serra Mesa Community Council (264)
La Jolla Town Council (273)
Rolando Community Council (288)
Oak Park Community Council (298)
Darnell Community Council (306)
Mission Beach Town Council (326)
Mission Valley Community Council (328C)
San Carlos Area Council (338)
Carmel Mountain Ranch Community Council (344)
Ocean Beach Town Council, Inc. (367A)
Pacific Beach Town Council (374)
Rancho Penasquitos Town Council (383)
Rancho Bernardo Community Council, Inc. (398)
San Dieguito Planning Group (412)
United Border Community Town Council (434)
Murphy Canyon Community Council (463)

Historic and Archaeology Associations

Carmen Lucas (206)
South Coastal Information Center (210)
San Diego History Center (211)
San Diego Archaeological Center (212)
Save Our Heritage Organisation (214)
Ron Chrisman (215)

Clint Linton (215B)
Frank Brown - Inter-Tribal Cultural Resource Council (216)
Campo Band of Mission Indians (217)
San Diego County Archaeological Society Inc. (218)
Kuumeyaay Cultural Heritage Preservation (223)
Kuumeyaay Cultural Repatriation Committee (225)

Native American Distribution (Public Notice Only)

Barona Group of Capitan Grande Band of Mission Indians (225A)
Campo Band of Mission Indians (225B)
Ewiiapaayp Band of Mission Indians (225C)
Inaja Band of Mission Indians (225D)
Jamul Indian Village (225E)
La Posta Band of Mission Indians (225F)
Manzanita Band of Mission Indians (225G)
Sycuan Band of Mission Indians (225H)
Viejas Group of Capitan Grande Band of Mission Indians (225I)
Mesa Grande Band of Mission Indians (225J)
San Pasqual Band of Mission Indians (225K)
Ipai Nation of Santa Ysabel (225L)
La Jolla Band of Mission Indians (225M)
Pala Band of Mission Indians (225N)
Pauma Band of Mission Indians (225O)
Pechanga Band of Mission Indians (225P)
Rincon Band of Luiseno Indians (225Q)
San Luis Rey Band of Luiseno Indians (225R)
Los Coyotes Band of Mission Indians (225S)

Other Interested Agencies, Organizations, and Individuals

SDUSD, Tony Raso (125)
SDUSD, Director (132)
Daily Transcript (135)
Beach and Bay Press (137)
San Diego Union-Tribune City Desk (140)
Metro News (141)
La Jolla Light (142)
San Diego Chamber of Commerce (157)
Building Industry Association (158)
San Diego River Park Foundation (163)
San Diego River Coalition (164)
Sierra Club (165)
Neighborhood Canyon Creek & Park Groups (165A)
San Diego Natural History Museum (166)
Jim Peugh (167A)
San Diego Audubon Society (167)
San Diego River Conservancy (168)
Environmental Health Coalition (169)
California Native Plant Society (170)
San Diego Coastkeeper (173)

San Diego Council of Divers (177)
Citizens Coordinate for Century 3 (179)
Endangered Habitats League (182 & 182A)
Torrey Pines Association (186)
League of Women Voters (192)
National City Chamber of Commerce (200)
Downtown San Diego Partnership (237)
Gaslamp Quarter Council (239)
Balboa Avenue CAC (246)
Marion Bear Natural Park Recreation Council (253)
Tecolote Canyon CAC (254)
Friends of Tecolote Canyon (255)
Friends of Switzer Canyon (260)
Mary Johnson (263B/328B)
MCAS Miramar (263C)
La Jolla Shores Association (272)
La Jolla Shores PDO Advisory Board (279)
Willie Jones – Citylink (296)
Fairmount Park Neighborhood Association (303)
John Stump (304)
Friend of Penasquitos Preserve, Inc. (313)
Surfers Tired of Pollution (318)
Debby Knight – Friends of Rose Canyon (320)
Mission Bay Lessees (323)
Mission Hills Association (327)
Mission Valley Center Assn. (328)
Friars Village HOA (328A)
Friends of the Mission Valley Preserve (330B)
Mr. Gene Kemp, GM – Fashion Valley (332)
Lynn Mulholland (333)
River Valley Preservation Project (334)
Friends of Adobe Falls (335)
Mission Trails Regional Park CAC (341)
Pardee Construction (345)
City Attorney of Del Mar (346)
Rancho Santa Fe Assn. (347)
22nd District Agricultural Assn- Del Mar Fairgrounds (349)
Friends of Los Penasquitos Canyon Preserve (357)
North Park Community Association (366)
Ocean Beach Merchants Association (367B)
Presidio Park Council (370)
Crown Point Association (376)
Rancho Penasquitos Community Council (378)
Torrey Pines Association (379)
Los Penasquitos Canyon Preserve CAC (385)
Sunset Cliffs Natural Park Rec. Council (388)
Peninsula Chamber of Commerce (391)
Point Loma Nazarene College (392)
San Dieguito Lagoon Committee (409)


San Dieguito River Park CAC (415)
Friends of San Dieguito River Valley (419)
Fairbanks Ranch Association (424)
RVR PARC (423)
San Dieguito River Valley Conservancy (422)
San Dieguito River Park JPA (425A)
San Pasqual-Lake Hodges Planning Group (426)
Southeastern San Diego Organizing Project (447)
Educational/Cultural Complex (450)
Chollas Restoration Enhancement and Conservancy/John Stump (451)
Kathleen Harmon – Chair, Central Imperial PAC (452)
Voice News & Viewpoint (453)
W. Anthony Fulton, Director – SDSU Facilities & Mgmt. (455)
Malcolm A Love (457)
Mission Trails Regional Park – Dorothy Leonard (465)
Crest Canyon CAC (475)
University City Community Assn. (486)
Hillside Protection Assn. (501)
Banker’s Hill Canyon Assn. (502)
Allen Canyon Committee (504)
S. Wayne Rosenbaum
Mark Rawlings
Bike San Diego
Building Owners and Managers Association
Coastal and Estuarine Research Federation
NAIOP San Diego
San Diego 350
San Diego Apartment Association
San Diego Association of Realtors
Pacific Corrugated
The Nature Conservancy
Urban Land Institute
Circulate San Diego
Weston Solutions, Inc.
Angela Deegan
Angie Mei
San Dieguito Engineering
Nasland Engineering
Bill Powers
Rick Engineering
Kimley-Horn
Pacific Corrugated
Shea Homes
RBF Consulting
PDC
Rick Engineering
Diane Coombs
Just Star Construction
Doug Smith

Dr. D. Bart Chadwick
Ed Kimura
Grace Van Thillo
Green Edge Technology
Greg Ponce – Shea Homes
Groundwork San Diego Chollas Creek
Industrial Environmental Association
Janina Moretti
Jerry Livingston
Nolte & Associates, Inc.
Adams Engineering
Shea Homes
Jim Varnadore
Joan Raphael
JP Engineering
Latitude 33
Landry Watson
Lyla Fadali
Masada Disenhouse
Mike Bullock
Mike Kimberlain, Kristar
Nicola Hedge
McMillin Land Development
Philip Petrie
Steven Scott
Tershia d’Elgin

VII. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- (X) Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Mitigated Negative Declaration, the Mitigation, Monitoring and Reporting Program and any Initial Study material are available in the office of the Planning Department for review, or for purchase at the cost of reproduction.


Myra Hermann, Senior Planner
Planning Department

August 21, 2015
Date of Draft Report

Analyst: Herrmann
Attachment: Revised Initial Study Checklist

January 12, 2016
Date of Final Report

LETTER

RESPONSE



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

September 24, 2015

Myra Herrmann
City of San Diego
1222 First Avenue, MS-501
San Diego, CA 92101

Subject: Storm Water Standards Manual Update / Project No. 435930
SCH#: 2015081066

Dear Myra Herrmann:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 23, 2015, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

STATE CLEARINGHOUSE (SEPTEMBER 25, 2015)

Please note that the State Clearinghouse initially distributed the draft MND using an incorrect SCH number. The typographical error was corrected but not before the California Department of Fish and Wildlife submitted their comment letter on September 17, 2015.

A-1 Comment acknowledged. One comment letter was received from the California Department of Fish and Wildlife via email. The response follows this item.

LETTER

RESPONSE

**Document Details Report
State Clearinghouse Data Base**

SCH# 2015081066
Project Title Storm Water Standards Manual Update / Project No. 435930
Lead Agency San Diego, City of

Type MND Mitigated Negative Declaration

Description In accordance with the federal Clean Water Act, the San Diego Regional Water Quality Control Board issues Municipal Storm Water National Pollutant Discharge Elimination System Permits to municipalities that own and operate a municipal separate storm sewer system that discharges into waters of the U.S. within the San Diego region. The RWQCB in the region in 1990, and has renewed it four times thereafter. In May 2013, the RWQCB adopted the most recent Municipal Permit, Order No. R9-2013-0001.

Lead Agency Contact

Name Myra Herrmann
Agency City of San Diego
Phone 619 446 5372
Fax
email
Address 1222 First Avenue, MS-501
City San Diego
State CA **Zip** 92101

Project Location

County San Diego
City San Diego
Region
Lat / Long
Cross Streets
Parcel No.

Township	Range	Section	Base	SBB&M
----------	-------	---------	------	-------

Proximity to:

Highways
Airports
Railways Various
Waterways Various
Schools
Land Use

Project Issues Archaeologic-Historic; Biological Resources; Drainage/Absorption; Geologic/Seismic; Soil Erosion/Compaction/Grading; Vegetation; Water Quality; Wetland/Riparian; Wildlife; Landuse; Cumulative Effects; Other Issues

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Fish and Wildlife, Region 5; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services, California; Caltrans, District 11; Air Resources Board; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Board, Region 9; Native American Heritage Commission; State Lands Commission

Date Received 08/25/2015 **Start of Review** 08/25/2015 **End of Review** 09/23/2015

Note: Blanks in data fields result from insufficient information provided by lead agency.

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LETTER

From: Schlitt, Paul@Wildlife
To: DSD, FAS
Cc: state.clearinghouse@oor.ca.gov; Zoutendyk, David; Mayer, David@Wildlife
Subject: California Department of Fish and Wildlife, Comments on the Draft Mitigated Negative Declaration for New Storm Water Municipal Permit Planning Documents (Project No. 435930, SCH No. 2015081055)
Date: Thursday, September 17, 2015 11:55:12 AM

Dear Ms. Herrmann,

The California Department of Fish and Wildlife (Department) has reviewed the draft Mitigated Negative Declaration (MND) dated August 21, 2015, for the New Storm Water Municipal Permit Planning Documents. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act [CEQA] Guidelines §15386) and pursuant to our authority as a Responsible Agency under section 15381 of the CEQA Guidelines over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code section 2050 et seq.) and/or Fish and Game Code section 1600 et seq. The Department also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan.

The Department offers the following comments and recommendations for the City to consider prior to the adoption of the MND.

- B-1 1. In conjunction with the wetland buffer language (i.e., sixth paragraph) that was provided in Mitigation Measure BIO-2, we also recommend the MND's Mitigation, Monitoring and Reporting Program (MMRP) provide the language from Section II A. of the City's Biology Guidelines that states, "Wetland buffers should be provided at a minimum 100 feet wide adjacent to all identified wetlands. The width of the buffers may be either increased or decreased as determined on a case-by-case basis, in consultation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service and Army Corps of Engineers, taking into consideration the type and size of development, the sensitivity of the wetland resources to detrimental edge effects, natural features such as topography, the functions and values of the wetland and the need for upland transitional habitat."
- B-2 2. The mitigation ratios provided in Table I of the MMRP (i.e., Tier IIIA - Common uplands) does not correspond with the ratios reflected within the City's Biology Guidelines (Table 3 -- Upland Mitigation Ratios). Please amend Table I to match the ratios provided in Table 3 in the City's Biology Guidelines.
- B-3 3. Along with citing the land use adjacency requirements within MND's MMRP, we recommend that the Storm Water Standards Form I-3B: Site Information Checklist for PDPs (Appendix A: Submittal Templates) include information regarding the proximity of the permanent, post-construction storm water Best Management Practices to the City's Multi-Habitat Planning Area and environmentally sensitive lands.

RESPONSE

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (SEPTEMBER 17, 2015)

- B-1** In accordance with the City's Biology Guidelines (page 10) and the Environmentally Sensitive Lands Regulations of the City's Land Development Code (Section 143.0141(A)(1)(c)), a 100-foot wetland buffer is only required for projects within the Coastal Overlay Zone and may be increased or decreased as determined on a case-by-case basis in consultation with the applicable Resource Agencies (USFWS, CDFW, ACOE). Outside of the Coastal Overlay Zone a wetland buffer must be maintained around all wetlands as appropriate to protect the functions and values of the wetland.
- B-2** Comment acknowledged. The mitigation ratios provided for common uplands (Tier IIIA) in Table 1 of the Biology Mitigation Framework has been corrected to match the upland mitigation ratios shown in Table 3 of the City's Biology Guidelines.
- B-3** The Storm Water Standards Form I-3B: Site Information Checklist for PDPs (Part 1, Appendix A: Submittal Templates) has been modified to include information regarding proximity of permanent, post-construction storm water BMP's to the City's MHPA and other environmentally sensitive lands as recommended.

LETTER

RESPONSE

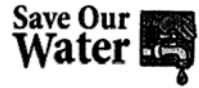
We appreciate the opportunity to comment on the draft MND and to assist the City in further minimizing and mitigation project impacts to biological resources. We would appreciate if you could confirm by e-mail your receipt of our comments. Should have any additional questions please contact me at the number provided below.

Paul Schlitt

Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
South Coast Region, Habitat Conservation Planning
3883 Ruffin Road
San Diego, CA 92123

Phone (858) 637-5510
Fax (858) 467-4299
Paul.Schlitt@wildlife.ca.gov

Every Californian should conserve water. Find out how at:



SaveOurWater.com · Drought.CA.gov

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County of San Diego

ELIZABETH A. POZZEBON
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
VECTOR CONTROL PROGRAM
5570 OVERLAND AVENUE, SUITE 102, SAN DIEGO, CA 92123
Phone: (858) 694-2688 Fax: (858) 571-4288
www.SDVvector.com

AMY HARBERT
ASSISTANT DIRECTOR

September 24, 2015

Myra Herrmann, Environmental Planner
City of San Diego Planning Department
1222 First Avenue, MS 501
San Diego, CA 92101
E-mail: DSDEAS@sandiego.gov

DRAFT MITIGATED NEGATIVE DECLARATION FOR THE STORM WATER STANDARDS MANUAL
UPDATE (PROJECT NO. 435930)

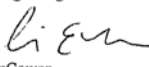
Dear Ms. Herrmann:

Thank you for the opportunity to review and comment on the Draft Mitigated Negative Declaration for the above referenced project. The County of San Diego Vector Control Program (VCP) is responsible for the protection of public health through the surveillance and control of mosquitoes that are vectors for human disease including West Nile virus (WNV).

The design and maintenance of the storm water control, conveyance, detention, and bio-retention structures have the potential to create unintentional sites for mosquito breeding. Mosquito breeding poses a risk to public health due to the potential for transmission of mosquito-borne diseases such as WNV. The VCP respectfully suggests that future development projects implemented in accordance with the Manual Update, including projects involving all types of Best Management Practices (BMPs), storm water controls, and bio-retention structures, a vector management plan that incorporates measures to minimize the creation of mosquito breeding habitat. Other potential mosquito breeding habitats include construction related depressions such as those created by demolition, grading activities, and wheel ruts. Any location that is capable of accumulating and holding at least ½ inch of water for more than 96 hours can support mosquito breeding and development.

For your reference, the County of San Diego Guidelines for Determining Significance for Vectors can be accessed at www.sandiegocounty.gov/dplu/docs/Vector_Guidelines.pdf and the California Department of Public Health Best Management Practices for Mosquito Control in California is available at <http://www.cdph.ca.gov/HealthInfo/discond/Documents/BMPforMosquitoControl07-12.pdf>.

Thank you again for the opportunity to comment on the Draft Mitigated Negative Declaration. Please continue to include us in the interested parties list for future notifications and environmental documents. If you have any questions regarding the above comment, please contact me at (858) 688-9426.

Sincerely, 
Erin E. McCowen
Environmental Health Specialist
Vector Control Program

"Environmental and public health through leadership, partnership and science"

COUNTY OF SAN DIEGO – DEPARTMENT OF ENVIRONMENTAL HEALTH (FEBRUARY 24, 2015)

C-1 Several sections of the Manual provide direction regarding vector control and ponding water limitations. Specifically, Part 1, Section 4.1 requires that projects incorporate design, construction, and maintenance principles to drain retained water within 96 hours and minimize standing water; similarly, Part 1, Section 6.3.7 includes the recommended drawdown time for hydromodification management facilities as 96 hours and when this standard cannot be met due to large stored runoff volumes with limited maximum release rates, a vector management plan may be an acceptable solution if approved by the County of San Diego Department of Environmental Health. Furthermore, Part 1 of the Manual (Appendix E) provides design fact sheets to facilitate compliance requirements.

RINCON BAND OF LUISEÑO INDIANS
Culture Committee

1 W. Tribal Road · Valley Center, California 92082 ·
 (760) 297-2621 or (760) 297-2622 & Fax: (760) 749-8901



August 28, 2015

Myra Herrmann
 The City of San Diego
 1222 First Avenue, MS 501
 San Diego, CA 92021

Re: New Storm Water Municipal Permit Planning Documents Proj. No. 435930

Dear Ms. Herrmann:

This letter is written on behalf of the Rincon Band of Luiseno Indians. Thank you for inviting us to submit comments on the New Storm Water Municipal Permit Planning Documents Project No. 435930. Rincon is submitting these comments concerning your projects potential impact on Luiseno cultural resources.

The Rincon Band has concerns for the impacts to historic and cultural resources and the finding of items of significant cultural value that could be disturbed or destroyed and are considered culturally significant to the Luiseno people. This is to inform you, your identified location is not within the Luiseno Aboriginal Territory. We recommend that you locate a tribe within the project area to receive direction on how to handle any inadvertent findings according to their customs and traditions.

If you would like information on tribes within your project area, please contact the Native American Heritage Commission and they will assist with a referral.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Jim McPherson
 Manager
 Rincon Cultural Resources Department

Bo Mazzetti
 Tribal Chairman

Stephanie Spencer
 Vice Chairwoman

Steve Stallings
 Council Member

Laurie E. Gonzalez
 Council Member

Alfonso Kolb
 Council Member

RINCON BAND OF LUISEÑO INDIANS (AUGUST 28, 2015)

Please note that the August 28th comment letter was submitted based on the public notice which was issued using an incorrect project name. This was a typographical error which was corrected in a new public notice with a new public review start date. The second letter submitted by Rincon addresses the project under the corrected project name and public review period.

D-1 Comment noted. As required by the Mitigation, Monitoring and Reporting Program (Mitigated Negative Declaration Section V), when a future project requires any form of archaeological evaluation or monitoring, a Native American (Kumeyaay) representative will be consulted to participate in the process. When required for future projects associated with the Storm Water Standards Manual, a Kumeyaay monitor will be on-site to monitor any ground disturbing activities associated with project implementation. In addition, in the event that unanticipated human remains are encountered during construction-related activities, the MMRP requires that work would be stopped in that area and the provisions explicitly stated in Section 5097.98 of the California Public Resources Code, Section 27491 of the California Government Code and Section 7050.5 of the California Health and Safety Code for the discovery and subsequent treatment of human remains will immediately be implemented in consultation with the Most Likely Descendant process.

RINCON BAND OF LUISEÑO INDIANS**Culture Committee**

1 W. Tribal Road · Valley Center, California 92082 ·
(760) 297-2621 or (760) 297-2622 & Fax: (760) 749-8901



September 2, 2015

Myra Herrmann
City of San Diego
Planning Department
1222 First Avenue, MS 501
San Diego, CA 92101

Re: Storm Water Standards Manual Update

Dear Ms. Herrmann:

This letter is written on behalf of the Rincon Band of Luiseño Indians. Thank you for inviting us to submit comments on the Storm Water Standards Manual Update Project. Rincon is submitting these comments concerning your projects potential impact on Luiseño cultural resources.

D-2

The Rincon Band has concerns for the impacts to historic and cultural resources and the finding of items of significant cultural value that could be disturbed or destroyed and are considered culturally significant to the Luiseño people. This is to inform you, your identified location is not within the Luiseño Aboriginal Territory. We recommend that you locate a tribe within the project area to receive direction on how to handle any inadvertent findings according to their customs and traditions.

If you would like information on tribes within your project area, please contact the Native American Heritage Commission and they will assist with a referral.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Jim McPherson
Manager
Rincon Cultural Resources Department

Bo Mazzetti
Tribal Chairman

Stephanie Spencer
Vice Chairwoman

Steve Stallings
Council Member

Laurie E. Gonzalez
Council Member

Alfonso Kolb
Council Member

RINCON BAND OF LUISEÑO INDIANS (SEPTEMBER 2, 2015)

D-2 Comment noted. See Response to Comment D-1 above.

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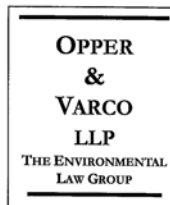
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S. WAYNE ROSENBAUM
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Of Counsel
RICHARD G. OPPER
ropp@envirolawyer.com

September 24, 2015



Ms. Myra Herrmann
Environmental Planner
City of San Diego Planning Department
1222 First Avenue, MS 501
San Diego, CA 92101

RE: City of San Diego Draft Storm Water Standards Manual Update
Project No. 435930/SCH No. 2015081066

Dear Ms. Herrmann:

I write on behalf of the Coalition¹ to provide comments on the City of San Diego's ("City") Draft Mitigated Negative Declaration ("MND")² prepared in Support of the City's Draft Storm Water Standards Manual Update (the "Update").³ The Coalition's comments regarding the Update itself will be submitted concurrently to the City's Storm Water Department, and a copy of that comment letter is attached as "Exhibit A."⁴

The aggressive timeline imposed by the Regional Water Quality Control Board (the "Board") does not supersede the City's obligations under the California Environmental Quality Act ("CEQA") to provide a thorough and reasoned environmental analysis of the Update. However, the inadequacy of the MND and flawed initial study supporting it suggest a willingness on the City's part to overlook these obligations at the expense of the environment.

¹ The Coalition consists of associations and individuals representing various private stakeholders who have a keen interest in achieving water quality objectives within the San Diego region in the most efficient and cost effective manner possible. Members of the Coalition include, but are not limited to, the San Diego Building Industry Association, Associated General Contractors, Associated Builders and Contractors, the San Diego Regional Chamber of Commerce, the Business Leadership Alliance, the San Diego Association of Realtors, the San Diego Apartment Association, the National Association of Industrial & Office Properties (NAIOP), the Building Office & Management Association (BOMA), and the San Diego Chapter of the American Society of Landscape Architects.

² PLANNING DEPARTMENT, CITY OF SAN DIEGO, DRAFT MITIGATED NEGATIVE DECLARATION: CITY COUNCIL APPROVAL OF THE STORM WATER STANDARDS MANUAL UPDATE (2015)(hereinafter "MND").

³ STORM WATER DIVISION, CITY OF SAN DIEGO, MODEL BMP DESIGN MANUAL SAN DIEGO REGION (2015)(hereinafter "Update").

⁴ Letter from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Jonard Talamayan, Junior Engineer, City of San Diego Storm Water Division (September 24, 2015)(exhibits omitted)(hereinafter "Exhibit A").

OPPER & VARCO LLP (SEPTEMBER 24, 2015)

E-1 This comment provides general statements regarding CEQA and the MND which are further expanded in the comments that follow. It should be noted that the analysis did not result in any significant impacts which could not be mitigated to below a level of significance and therefore an environmental impact report (EIR) was not prepared for the project.

Approval of the MND would violate CEQA for a number of reasons:

- The MND is based on an inadequate initial study that fails to properly analyze or even consider potentially significant environmental impacts of the Update;
- There is a fair argument the project will have significant environmental impacts requiring an Environmental Impact Report ("EIR");
- The project description is incomplete without Board approval of an alternative compliance program ("ACP") and the documents which support it;
- The MND both defers and fails to specify appropriate mitigation measures; and
- The MND endorses mitigation measures which are illegal and therefore infeasible.

Individually and collectively, these problems reflect a need for the City to complete the thorough analysis of a full environmental impact report ("EIR").

The MND is based on an inadequate initial study that fails to properly analyze or even consider potentially significant environmental impacts of the Update.

An initial study is "a preliminary analysis prepared by the Lead Agency to determine whether an EIR or Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR."⁵ If, based on the initial study, a lead agency determines there is substantial evidence to support a fair argument of a significant environmental impact, an EIR may be necessary. Here, the City failed to adequately conduct this preliminary analysis. Instead, the City engaged in a mere cursory analysis of potential impacts or failed to consider potential impacts entirely. The following is a partial summary of issues the initial study failed to adequately address:

I) AESTHETICS – Would the project:

d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

The Update's preferred option for storm water pollution control is onsite retention of precipitation up to the design storm capture volume ("DCV").⁶ It is extremely

⁵ CEQA Guidelines § 15365.

⁶ Update § 2.2.1(a) at 2-5.

E-2 See Response to Comment E-1.

E-3 All structural BMPs must be designed, constructed, and maintained to drawdown surface ponding within 96 hours to prevent mosquito breeding, in accordance with the Municipal Permit Fact Sheet (Attachment F) and Department of Environmental Health requirements. Furthermore, bioretention and biofiltration BMPs are required to drawdown surface ponding within 24 hours. As a result, surface ponding from structural BMPs would not create a new source of substantial light or glare.

likely this will result in large pools of standing water, which may generate glares “that would adversely affect day or nighttime views in the area.” However, this was not analyzed in the initial study, and the City found there was no impact.⁷

IV) BIOLOGICAL RESOURCES – Would the project:

a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (“CDFW”) or the United States Fish and Wildlife Service (“FWS”)?

b) Substantial adverse effect on any riparian habitat or other community identified in local or regional plans, policies, and regulations or by [CDFW] or [FWS]?

c) Have substantial adverse effect on federally protected wetlands such as marshes, vernal pools, and coastal areas as defined by Section 404 of the Clean Water Act through hydrological interruption, or other means?

E-4

A basic hydrologic estimation of runoff for the most common soils in San Diego, given the typical natural cover of a Mediterranean climate, shows implementing the Update will result in a decreased amount of post-development runoff. This new level may even be less than the amount of runoff occurring naturally. This reduction in runoff can be demonstrated with standard hydrologic equations. Citywide implementation of the Update will reduce the amount of water in our already parched streams, lakes, and estuaries, many of which have become effluent dependent ecosystems. Not only will this reduce water volumes in these ecosystems, it will likely change water temperatures, flows, and chemistry. The initial study concluded that all three of these types of environmental effects were “less than significant” with the incorporation of mitigation, yet the study neither explains nor analyzes how these imperiled habitats or species will be affected when this water is withheld from the watershed.⁸

VI) GEOLOGY AND SOILS – Would the Project:

b) Result in substantial soil erosion or the loss of topsoil?

E-5

As part of the new hydromodification management requirements, Priority Development Projects (“PDPs”) are required to avoid areas of coarse sediment in order to allow that sediment to be naturally transported into receiving waters.⁹ Maps provided by the County of San Diego indicate up to 25% of the county consists of potential critical coarse sediment yield areas (attached as “Exhibit

⁷ MND, INITIAL STUDY ATTACHMENT at 8 (hereinafter “Initial Study”).

⁸ Initial Study at 13-16.

⁹ Update § 6.24 at 6-7.

E-4 The 2013 MS4 Permit requires that Priority Development Projects retain the pollutants in the runoff from the 85th percentile storm event. If retention is not feasible, biofiltration BMPs are required. The fundamental principle of Low Impact Design is to mimic natural hydrology, therefore if natural condition of the site does not infiltrate run-off, the proposed BMPs will not be retention BMPs. The soil conditions in San Diego are generally not conducive to retention. As a result, most projects will be required to implement biofiltration BMPs, which treat the storm water runoff before conveyance to the receiving water. Because biofiltration systems are lined, they have an underdrain that conveys treated storm water runoff to the City’s conveyance system and eventually receiving waters.

E-5 As required by Municipal Permit Section E.3.c.(2), the Manual Update requires Priority Development Projects to avoid critical sediment yield areas or implement measures that would allow coarse sediment to be discharged to receiving waters, such that the natural sediment supply is unaffected by the project. The Manual Update does not result in the “loss of topsoil” and would prevent erosive conditions to receiving streams as avoidance of coarse sediment areas allows for *natural* discharge of coarse sediment.

B").¹⁰ The Update compels erosion, yet the initial study limits its analysis to the effects of ground-disturbing activities associated with construction of structural BMPs and the BMPs themselves.¹¹ Again, the initial study suggests there is no impact.¹²

VII) GREENHOUSE GAS EMISSIONS – Would the project:

b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The Update will require significant deviation from current planning and land use documents, including the policy towards encouraging transit oriented development. This is an important aspect of the City's Climate Action Plan designed to reduce greenhouse gas emissions. However, the initial study ignores this impact and instead only looks at the short term construction impacts associated with the installation of BMPs.¹³

VIII) HAZARDS AND HAZARDOUS MATERIALS – Would the Project:

a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?

The initial study claims "[BMPs] are not designed to produce, handle, transport, or release hazardous materials and therefore would not create significant hazard to the public."¹⁴ The Update relies heavily on infiltration as a means of controlling storm water pollutants, yet ignores the fact that infiltration may result in the unauthorized transportation or disposal of hazardous materials in soil and groundwater. Indeed, those sites with soil conditions most favorable to infiltration now are likely those sites where soil conditions favoring infiltration existed prior to adoption of modern hazardous waste management practices. This was not considered in either the MND or the initial study.

Furthermore, the Update requires the use of biofiltration BMPs when retention of the DCV is not technically feasible.¹⁵ The operation and maintenance of these BMPs will likely involve the ultimate transport and disposal of hazardous amended soils from thousands of existing and proposed biofiltration BMPs. This was not considered in the initial study either.

¹⁰ "2015 Regional Potential Critical Coarse Sediment Yield Area Maps." Available online at http://www.projectcleanwater.org/images/stories/Docs/LDW/CCSY/ccsy%20regional%20wmaa_attchv2_042715.pdf. Last accessed September 24, 2015.

¹¹ Initial Study at 20.

¹² *Id.*

¹³ *Id.* at 24.

¹⁴ *Id.* at 23.

¹⁵ Update at 2-5.

E-6 The Manual Update does not deviate from other City planning and land use documents adopted for reducing greenhouse gas emissions. The City of San Diego's Climate Action Plan (CAP) identifies strategies and goals to reduce greenhouse gas emissions to achieve 2020 and 2035 targets. Several goals include to increase the use of mass transit, commuter walking opportunities, and commuter bicycling opportunities. The Manual Update allows for street and road redevelopment projects to be exempt from being defined as PDPs if designed and constructed in accordance with the USEPA Green Streets guidance. The Manual Update also allows exemptions to PDP requirements for bicycle, sidewalk, and trail projects if the project meets the criteria in Part 1, Appendix J. In turn, the Manual Update does not impede transit oriented development or active transportation projects, but rather encourages careful planning to integrate Low Impact Design features into project components storm water runoff quality; this is consistent with the Conservation Element of the City's General Plan policies to improve and maintain urban runoff water quality.

E-7 Federal and state hazardous waste law does not regulate the passive infiltration of storm water and, therefore, infiltration cannot result in the "unauthorized" transportation or disposal of hazardous materials in soil and groundwater. Regardless, Chapter 7 of the Manual has been updated to include a requirement stating that removal and transport of BMPs soil media are subject to compliance with applicable local, state and federal laws which includes the possible transport of such materials associated with the operation and maintenance of the BMPs.

Individual project applicants must submit a Storm Water Quality Management Plan (SWQMP) and identify the operation and maintenance requirements of the selected structural BMPs and the maintenance mechanisms for long term operation and maintenance of structural BMPs. Project applicants must submit a SWQMP using the template form in Appendix A of the Manual Update. Attachment 3a of the SWQMP template states that the applicant must identify, "When applicable, necessary special training or certification requirements for inspection and maintenance personnel such as confined space entry or hazardous waste management."

LETTER

iv) For a project located within an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working the project area?

The failure to analyze the effects of glare from storm water retention noted in the comment about impacts to aesthetics above is even more troubling here, as it has the potential to impair the vision of pilots in the air. Retained water also has the possibility of attracting wildlife such as birds, which often pose a risk to aircraft operations. Neither of these issues are considered in the initial study.¹⁶ Moreover, the City limits its analysis to the airports it *operates*, ignoring the fact that both San Diego International Airport and Marine Corps Air Station Mira Mar are within the City limits and have approved airport land use compatibility plans.¹⁷

IX) HYDROLOGY AND WATER QUALITY – Would the project:

a) Violate any water quality standards or waste discharge requirements?

The initial study found the Update would have no impact on water quality standards, yet the Update requires discharge of coarse sediment to water bodies impaired by sediment.

E-8

Los Peñasquitos Lagoon is one of the few remaining coastal lagoons in southern California and provides valuable estuarine habitat as well as numerous other important beneficial uses. Before significant population expansion and development, Los Peñasquitos Lagoon was a tidal influenced lagoon with a salt water marsh. Urbanization has resulted in fresh water intrusion altering the salinity of the Lagoon and resulting in excessive sedimentation, as well as the degradation and loss of estuarine habitat.¹⁸ The Lagoon does not meet the water quality objective for sediment. On the 1996 List of Water Quality Limited Segments, beneficial uses impaired by increased sedimentation are associated with protection of aquatic life (e.g., Estuarine Habitat, Marine Habitat, Rare, Threatened, or Endangered Species, and Preservation of Biological Habitats of Special Significance, etc.).¹⁹ The San Diego Water Board adopted Resolution No. R9-2012-0033, an amendment incorporating the Los Peñasquitos Lagoon Sediment Total Maximum Daily Load ("TMDL") into the San Diego Basin Plan on June 13, 2012. This TMDL Basin Plan Amendment was approved by the State Water Resources Control Board on January 21, 2014, and by the Office of Administrative

¹⁶ Initial Study at 24.

¹⁷ *Id.*

¹⁸ Order No. R9-2012-0033, A RESOLUTION AMENDING THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO BASIN (9) TO INCORPORATE THE TOTAL MAXIMUM DAILY LOAD FOR SEDIMENTATION IN LOS PEÑASQUITOS LAGOON, http://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/los_penasquitos_lagoon_n.shtml. Last accessed September 24, 2015.

¹⁹ *Id.*

RESPONSE

Attachment 3a of the Manual will also be revised to include a line item with check box stating that "If applicable, indicate required maintenance and replacement frequency of bioretention soil media. Replacement of bioretention soil media is subject to local, state, and federal laws."

Based on the requirements stated in the Manual, drawdown of surface ponding water must occur within 96 hours for vector control purposes and within 24 hours for bioretention and biofiltration BMPs. Therefore, the likelihood of future proposed BMPs to resulting in glare that could affect or impair pilots' vision or attract migratory birds that could pose a risk to aircraft is minimal. Please also see Response to Comment No. E-3 regarding ponding water relative to light or glare impacts.

E-8 The intent of the Manual Update is to address sediment management from a hydromodification perspective that is technically different than the sediment impairment indicated by the comment. The technical basis for coarse sediment management as indicated in the Manual Update is based on the following rationale:

- Sediment is discharged through the receiving waters as 1) bed material load (coarse material), which is transported in almost continuous contact with the bed or 2) wash load (fine material) which is carried continuously in suspension by flow. Based on the available literature, stability of the receiving waters is dependent on adequate supply of bed material load in relation to the flows in the system, and reductions in wash load are assumed to improve water quality/habitat function.

The Total Maximum Daily Load (TMDL) adopted for the Los Peñasquitos Lagoon was developed to reduce the wash loads discharging to the lagoon and depositing directly within the lagoon. This interpretation was based on the following statements in the adopted TMDL:

- For the sediment water quality objective in the Basin Plan, the Basin Plan states: "The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses."

Law (OAL) on July 14, 2014. United States Environmental Protection Agency (US EPA) approved the TMDL Basin Plan Amendment on October 30, 2014.

Like all WQIPs referred to in the Update, the WQIP for Los Peñasquitos watershed has yet to be approved by the Board. However, the draft WQIP includes actions intended to meet the TMDL requirements by reducing sediment charges to the Lagoon. The Update requires coarse sediments continue to be discharged to the Lagoon. A total avoidance strategy will comply with the TMDL requirements but violate the Update. Allowing coarse sediment to continue being conveyed to the Lagoon satisfies the Update while violating the TMDL. The initial study and MND completely ignore both of these potential impacts, and they further provide no suggestion as to how to resolve the conflict between the TMDL and the Update.

X) LAND USE AND PLANNING – Would the Project:

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The implementation of the Update will result in significant impacts to land use and resources protected by the Local Coastal Program (“LCP”). These changes will have to be reflected in the City’s LCP through a series of amendments.²⁰ However, the City’s only apparent communication with the Coastal Commission regarding this major revision to land uses and protection of environmental resources has been to provide the Coastal Commission with a courtesy copy of the MND.²¹ This does not meet the standard of coordination required by Pub. Resources Code § 21003(a) and CEQA Guidelines § 15004(c). Although the City cites consistency with the Conservation Element of the General Plan, neither the Conservation Element nor the General Plan have been revised to reflect the impacts of the Update.²² However, land use impacts caused by the Update are so significant and far reaching, the Update functions as a *de facto* General Plan amendment. There is no analysis as to whether the Update conflicts with the LCP or the General Plan, and the City again finds no impact.

The Update further conflicts with the goal of the City’s General Plan to encourage transit-oriented, high density and high intensity development in urban areas of the City. Retention of the DCV will make development in furtherance of this goal impossible, limiting the City’s ability to contribute to the region’s housing needs. It will further limit the implementation of the Green Streets concept and other BMPs until and unless an alternative compliance option is approved. None of this was considered in the MND or the initial study.

²⁰ San Diego Municipal Code § 122.0106.

²¹ MND at 30.

²² Initial Study at 30.

E-9

- As described in the SDRWQCB Staff report, the modeling to assign waste load allocation and to determine the required load reductions was performed for suspended sediment using Total Suspended Solids as a metric.

The Manual Update requires protection and discharge of existing sources of coarse material (bed material) from the watershed to the receiving waters so that the stability of the receiving waters is not impacted. As interpreted, these requirements do not conflict with the TMDL, rather the coarse sediment requirements of this update will assist the City in meeting its TMDL requirements by ensuring that critical coarse bed sediments are provided to receiving channels. These coarse sediments are key in maintaining channel geometry and preventing channel and bank scour that in turn could lead to increased fine sediment mobilization. In summary, the TMDL is interpreted to regulate fine sediments while this update is intended to comply with regulatory requirements for coarse sediment.

E-9 Under the Coastal Act, the California Coastal Commission has primary permitting authority over development in the coastal zone until a local government submits a Local Coastal Program (LCP) and it is certified by the Commission, at which point the local government becomes the primary permitting authority. A LCP is comprised of local (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) other implementing actions within sensitive coastal resources areas. Cal. Pub. Res. Code § 30108.6. The Coastal Act defines “land use plan” as “the relevant portions of a local government’s general plan, or local coastal element, which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.” Cal. Pub. Res. Code § 30108. “Implementing actions” include ordinances, regulations, or programs which implement the provisions of the certified local coastal program or the policies of the Coastal Act. The City has multiple LCPs for different geographic units.

When the City takes an action that “authorizes the use of a parcel of land other than a use that is designated in the certified local coastal program as a permitted use of the parcel,” the City must seek to amend the LCP.

Also, the City fails to acknowledge that the creation of large surface retention basins, avoidance of coarse sediment, and general reduction in PDP footprint due to the Update will ultimately result in less overall development than has been projected in the General Plan and Community Plans. This reduction in development will undoubtedly impact the calculation of the Facilities Benefits Assessments ("FBAs") and Development Impact Fees ("DIFs") which support the Public Facilities Finance Plans linked to the various Community Plans throughout San Diego. There is no evidence this potential impact on public services was ever analyzed.

XVI) TRANSPORTATION/TRAFFIC

a) Conflict with applicable plans, ordinances, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel, and relevant components of the circulation system, including, but not limited to, intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit?

E-10

b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

c) Substantially increase in hazards due to a design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The Update also applies the DCV retention requirement to the construction and reconstruction of roads throughout the City. As the Update does not yet allow for alternative compliance strategies, in many cases, the rights-of-way allocated for new and reconstructed roads will be insufficient to accommodate detention systems that do not conflict with safe road design criteria. Avoidance of critical coarse sediment yield areas may result in unsafe road configurations. The initial study and MND fail to analyze these impacts. Further, these potentially massive changes to traffic and transportation do not appear to have considered regional transportation planning documents such as the 2050 Regional Transportation Plan.

XVII) UTILITIES AND SERVICE SYSTEMS – Would the project:

E-11

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Cal. Pub. Res. Code § 30514(e). However, the Update does not change any land use designations. It is not a land use plan, a zoning ordinance, or other implementing action. It is not a broad "policy" or "program", but a technical manual. Therefore, the implementation of the Update does not require an LCP amendment.

The Update does not conflict with applicable transportation/traffic plans, ordinances, or policies. Section 4.10 of the 2050 Regional Transportation Plan references the Model SUSMP and states that "Each transportation network improvements and land use changes associated with regional growth within the 2050 RTP/SCS would require coordination with appropriate municipal staff to determine if any project or watershed conditions would affect selection and design of BMPs..."

Treatment of the Design Capture Volume (DCV) does not conflict with high-density development as retention of the DCV is not the only pollutant control option. The Manual Update, in accordance with the Permit requirements, details the hierarchy of treatment options which includes bioretention and biofiltration. Additionally, the Manual Update encourages green streets implementation, even though it's optional in accordance with the Permit. The Permit provides a pathway for PDP exemption, at the discretion of the copermittee, if the project implements green street elements. The City chose to allow this exemption and developed Green Street Guidance in Part 1, Appendix J of the Manual Update.

E-9

It is assumed that all BMPS's would be constructed on-site, within a proposed development footprint. However, if necessary to comply with permit requirements, project redesign to accommodate BMP's could result in a reduction in the developable footprint for a particular parcel. However, this reduction does not constitute a significant impact to public services as a result of Manual implementation of the Manual. The collection of development impact fees or facilities benefits assessments would be based on the final unit count at the time that building permits are issued and not as a result of compliance with the MS4 permit or Manual implementation.

The initial study indicates these effects will be “less than significant with mitigation incorporated.”²³ The mitigation incorporated in the MND is limited only to Historical Resources, Biological Resources, Geology, Paleontological Resources, and Land Use (MSCP/MHPA).²⁴ The initial study does adequately assess new storm water drainage facilities or expansion of existing storm water facilities for those environmental effects that were improperly analyzed or ignored outright.

XVIII) MANDATORY FINDINGS OF SIGNIFICANCE – Does the Project:

b) Have impacts that are individually limited, but cumulatively considerable?

Again, the City’s analysis claims these impacts will be less than significant with mitigation incorporated when only land use (MSCP/MHPA), biological, historical and/or paleontological resources are analyzed. This is an inadequate analysis.

It is extremely difficult if not impossible to ascertain from the initial study whether there is a “fair argument” that substantial evidence exists of significant environmental impacts. “If a lead agency does not conduct an adequate initial study regarding a particular environmental effect of a project, it cannot rely on an absence of evidence resulting from that inadequate study as proof there is substantial evidence showing that particular effect is not significant under CEQA.”²⁵ Though it does not require the same thoroughness as an EIR, an initial study cannot just choose which impacts it will study and ignore the rest. “While a fair argument of environmental impact must be based on substantial evidence, mechanical application of this rule would defeat the purpose of CEQA where the local agency has failed to undertake an adequate initial study. The agency should not be allowed to hide behind its own failure to gather relevant data.”²⁶ The City fails to provide the minimal level of analysis required for an initial study, and no CEQA document should be certified by the City Council until at the very least an adequate initial study is completed.

There is a fair argument the project will have significant environmental impacts requiring an EIR.

Despite the failings of the initial study, there is more than a “fair argument” that substantial evidence exists demonstrating the Update will result in significant impacts requiring the City undergo the full CEQA analysis of an EIR. This fair argument exists in addition to the omitted mandatory finding of significance regarding cumulative impacts.

²³ Initial Study at 39-40.

²⁴ MND at 5.

²⁵ *City of San Diego v. Board of Trustees of the California State University* (2011)201 Cal. App. 4th 1134, 1182 (citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

²⁶ *Sundstrom* at 311.

E-10 See Response to Comment No. E-9.

The assertion that the Update would result in an increase in hazards due to a design feature is speculative as the Manual Update does not contain project specific transportation/traffic designs.

E-11 We disagree that there are environmental effects that were improperly analyzed or ignored. Construction of future projects implemented in accordance with the requirements of the Manual Update, which include both on-site and off-site BMPs, was used as the threshold or baseline for determining the potential for significant direct or indirect effects on the environment. For a project to result in the construction of new storm water drainage facilities or expansion of existing facilities, such as catch basins, curb inlets, or storm drain pipes, the project would need to overburden current storm water drainage facilities, thereby requiring new or expanded facilities. Structural BMPs are another type of storm water drainage facility that reduces the pollutant content of storm water discharges. In this case, the Manual Update merely indicates appropriate BMPs for site development, which generally will result in less storm water discharge to the City’s MS4 system. To the extent that new storm water facilities are constructed, such facilities would not cause a significant environmental effect.

E-12 The initial study is adequate under CEQA. The commenter fails to identify which potential impact the initial study has failed to adequately analyze. This comment is not supported by substantial evidence indicating a fair argument that adoption of the Storm Water Standards Manual, which is necessary to implement the Revised MS4 Permit will result in a significant unmitigated impact on the environment warranting preparation of an EIR.

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E-13

If the City determines there is substantial evidence that any aspect of the project individually or cumulatively may significantly affect the environment, the City must prepare an EIR.²⁷ A fair argument can be made that significant impacts are present based on a review of the substantial evidence in the entirety of the record.

As explained above, a lead agency is not allowed to rely on a deficient record of its own creation when making this determination. Furthermore, the lack of specificity in proposed mitigation measures highlighted by the lack of an approved ACP and the infeasibility of other proposed mitigation measures due to their illegality or present unavailability as discussed below demonstrate not only that the record thus far created by the City is insufficient, but also that there is a fair argument that substantial evidence exists indicating the project may have environmental impacts. Unavailable or illegal mitigation measures lacking specificity, incomplete and unapproved key project components including a robust ACP, insufficient analysis, and the other critiques cited by the Coalition demonstrate the City must prepare an EIR and recirculate it to the public before the City can legally approve the Update.

The skepticism of appellate courts reviewing controversial projects led one leading reference on CEQA to caution “when undertaking a project involving public controversy of any significant level, agencies and applicants would be prudent to exercise caution in proceeding with a negative declaration or [MND].”²⁸ The broad membership of the Coalition is evidence such controversy exists surrounding the Update.

The project description is incomplete without the approved supporting documents.

E-14

Negative declarations, mitigated or otherwise, must contain “a brief description of the project,” commonly and appropriately referred to as a “project description.”²⁹ “A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e. the ‘No-project’ alternative) and weigh other alternatives in the balance.”³⁰ The prevalence of Alternative Compliance in the Update makes it an integral component of the project, especially when the mitigation proposed in the MND relies so heavily on the assumption it will exist in time for PDPs to comply with the Update. In addition, the Update refers to the WQIPs, WMAAs, and WQEs, all of which remain to be approved by the Board.

Throughout the Update and the MND, repeated reference is made to the “Alternative Compliance Program” (“ACP”). In fact, alternative compliance is

²⁷ CEQA Guidelines § 15063(b)(1).

²⁸ MICHAEL H. REMY ET AL., GUIDE TO CEQA 255-256 (11th ed. 2007).

²⁹ CEQA Guidelines § 15071(a).

³⁰ *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 192-193.

E-13 See Response to Comment No. E-12. Implementation of Phase 1 of an alternative compliance program (ACP) would not result in cumulative impacts as offsite measures must provide a greater overall water quality benefit for the Watershed Management Area than if the PDP were to implement structural BMPs onsite. In addition, participation in an alternative compliance program is optional and at the discretion of the Copermittee. The City chose to implement Phase I of ACP concurrently with the effective date of these requirements (February 16, 2016). If the Watershed Management Area Analysis and the Water Quality Equivalency are not approved by February 16, 2016, individual projects would have to meet compliance on site. Regardless, the ACP is not relied on as mitigation pursuant to CEQA and, therefore, the commenter’s claim about the unavailability of ACP is irrelevant.

E-14 The Project Description has been updated to provide further details about subsequent project review as follows: All Standard and Priority Development Projects are required to submit project plans for City review to ensure that individual projects comply with the Manual Update requirements. PDPs must submit a Storm Water Quality Management Plan (SWQMP), which includes details of the project’s site design, source control, and structural BMPs, as well as BMP operation and maintenance requirements. For public and private projects, plan reviews are conducted by the City’s Storm Water Division and Development Services Department engineering staff, respectively. In addition, Engineering staff also review project submittal packages to ensure that the DS-560: Storm Water Applicability Checklist is filled out correctly; that drainage area delineations are correct; verify that the correct runoff coefficient (C-value) calculations are used; verify hydrology calculations for every drainage area; verify hydraulic calculations; and verify BMP sizing calculations

In addition, implementation of Phase 1 of an Alternative Compliance Program depends on approval of the Watershed Management Area Analysis and Water Quality Equivalency documents. If alternative compliance is not implemented by the effective date of the Manual Update, individual projects must be designed to meet onsite compliance as required by the Municipal Permit. Contrary to the commenter’s contention, the MND does not rely on the ACP as CEQA mitigation.

E-14

mentioned 92 times in the Update and 164 times in the MND. The Permit states: "At the discretion of each Copermittee [PDPs] may be allowed to participate in an alternative compliance program in lieu of implementing the onsite structural BMP performance requirements . . . provided the Water Quality Improvement Plan includes the optional Watershed Management Area Analysis . . . and Water Quality Equivalency calculations have been accepted by the San Diego Water Board's Executive Officer."³¹ As the City has chosen to allow participation in an ACP, and also makes extensive reference to it throughout the Manual and MND, it is more than likely PDPs will desire to use it.³²

The Update even requires Alternative Compliance be used in certain circumstances.³³ Section 2.2.1 sets the Storm Water Pollutant Control Performance Standards.³⁴ Under section 2.2.1(a)(ii), for those PDPs where it is technically infeasible to implement both retention and biofiltration BMPs, "the PDP shall utilize flow-thru treatment control BMPs . . . to treat runoff leaving the site, AND participate in alternative compliance to mitigate for the pollutants from the DCV not reliably retained onsite pursuant to Section 2.2.1." (capitalization in original.)³⁵

Whether it is required or merely an extremely likely to be used alternative, ACP is an integral part of the Update, and therefore one would expect it would be thoroughly scrutinized in any environmental analysis of the project.

As of this writing, neither the Water Quality Improvement Plans nor the Watershed Management Area Analyses have been approved. These are mandatory conditions precedent to the implementation of an ACP.³⁶ The Water Quality Equivalency calculations have not been approved at the time of this writing either.

Nor is it likely these will be ready for inclusion in the Update any time soon. The RWQCB has recently provided comments following a preliminary review of the WQIPs and noted:

"At this time, the San Diego Water Board is providing general comments for all the Plans because **there are several issues of concern already identified that make the [WQIPs] unacceptable, as well as noncompliant with the requirements of the [Permit].**" (emphasis added.)³⁷

³¹ Order No. R9-2013-0001 as Amended by R9-2014-0001 and R9-2015-0100 at 97 (hereinafter the "Permit").

³² MND at 5 ("The City intends to implement the alternative compliance program . . .").

³³ Update at 2-7.

³⁴ *Id.* at 2-5.

³⁵ *Id.* at 2-7.

³⁶ Attachment 2 to Tentative Order No. R9-2015-0100 at F-107 (hereinafter "Fact Sheet").

³⁷ Letter from Laurie Walsh, Senior Water Resource Control Engineer, San Diego Regional Water Quality Control Board, to San Diego County Principal Watershed Copermittees (August 5, 2015) at 2 (hereinafter "Walsh Letter").

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Regarding the Watershed Management Area Analysis for the San Diego River, the Board found a proposed exemption from the hydromodification requirements insufficient as it lacked “a similar, thorough, and multiple lines of evidence approach analysis” that had only been conducted for one section.³⁸ As the Board reminded all the Copermittees:

“Likewise, a Copermittee is not authorized to implement an Alternative Compliance Program . . . for any Priority Development Project within its jurisdiction until the optional Watershed Management Area Analysis . . . has been accepted as part of the Plan.”³⁹

Even the metrics for assessing the effectiveness of an ACP remain uncertain. The Permit fact sheet explains the importance of the WQEs:

“Water Quality Equivalency calculations are necessary to establish a regional and technical basis for determining water quality benefits associated with alternative compliance projects, which can be consistently used by all Copermittees in the San Diego Region.”⁴⁰

The WQEs “establish a regional and technical basis for determining the water quality benefits associated with [ACPs].”⁴¹ Without WQEs, the public has no idea how different water quality measures will be valued as PDPs and others relying on ACPs buy, sell, and trade those benefits. The Board stressed the importance of these WQEs to implementing key facets of the project in a letter to the Copermittees:

“Accepted Water Quality Equivalency calculations must be incorporated as part of any Copermittee’s alternative compliance program necessary for evaluating Watershed Management Area Analysis candidate projects, project applicant – proposed alternative compliance projects, alternative compliance in lieu fee structures, and alternative compliance water quality credit systems . . .”⁴²

In the absence of approved WQIPs with WMAAs and WQEs, ACPs are undefined and unavailable. An ACP for the Permit remains speculative at best. Approving an Update that relies so extensively on ACPs makes compliance confusing and problematic, if not impossible in some cases. The Board even reminds the Copermittees the next revisions of the Plans are due after the close of public comment period, which is 5 days after the public comment period for this MND and the Update end.⁴³ The core documents supporting the Update will be changed

³⁸ Walsh Letter at 14.

³⁹ Walsh Letter at 18.

⁴⁰ Fact Sheet at F-108-109.

⁴¹ Permit § E.3.C(3)(a) at 97.

⁴² *Id.*

⁴³ Walsh Letter at 18.

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in response to public participation which is not even complete. It is impossible to provide an adequate project description before the City knows what it is describing, and without an adequate project description, approval of the MND would violate CEQA.

The MND both defers and fails to specify appropriate mitigation measures.

Specific mitigation measures are essential to determine whether an environmental impact can be rendered less than significant. "In general, an agency should not rely on a mitigation measure of unknown efficacy in concluding that a significant impact will be mitigated to a less than significant level."⁴⁴ A project proponent may not defer formulation of these mitigation measures:

"Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way."⁴⁵

The Guidelines acknowledge that in certain limited circumstances, deferral of mitigation measures may be appropriate. However, this is only appropriate when the measures can specify performance standards. It is very difficult to specify performance standards for an alternative compliance program or other mitigation measures when the supporting documentation including the WQEs, WQIPs and WMAAs underlying the mitigation measures remains to be approved by a Board. Instead, the City appears content to satisfy this requirement by suggesting "more than one specified way" to mitigate significant impacts. Having more than one specified way is permissible, but not if all of those ways lack specific performance standards.

The MND endorses mitigation measures which are illegal and therefore infeasible.

In addition to being specific, proposed mitigation measures must be feasible.⁴⁶ For a mitigation measure to be feasible, it must be legal. On several occasions, representatives of the Coalition have written to City staff and the RWQCB expressing concerns that the Manual makes assertions about methodologies for the determination of the safety and efficacy of treatment control BMPs that make antimicrobial claims.⁴⁷ Under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") and the California Food and Agriculture Code, US EPA and the

⁴⁴ Remy at 551.

⁴⁵ CEQA Guidelines § 15126.4(a)(1)(B).

⁴⁶ CEQA Guidelines § 15126.4(a)(1).

⁴⁷ Letter from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 10, 2015); Email from S. Wayne Rosenbaum, Partner Oppen & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 20, 2015)(collectively attached hereto as "Exhibit C").

E-15 The MND for the Manual is programmatic because the Manual in and of itself is not constructing any improvements; rather, it provides technical guidance for future development projects to ensure compliance with the MS4 Permit. The MND follows that same framework by providing the steps necessary to conduct meaningful environmental review in accordance with the State CEQA Statutes and Guidelines. The environmental analysis in this MND addresses the potential for impacts associated with subsequent future projects implemented in accordance with the Manual. Future projects would be subject to subsequent review in accordance with CEQA. The Mitigation Framework incorporated into the MND provides the steps and procedures to be followed during review of subsequent projects to determine if an impact would result requiring mitigation. These steps include surveys, technical evaluations and report preparation, etc., which will be reviewed by an environmental planner during preparation of the CEQA initial study checklist and document type determination. Finally, contrary to the commenter's contention, the MND does not rely on the ACP as CEQA mitigation.

E-16 FIFRA only regulates sellers and distributors of pesticide devices. The City is neither a seller nor a distributor of pesticide devices, even if one were to claim that a structural BMP is a pesticide device subject to labeling requirements. Ultimately, the City's production of the Manual does not affect the obligations of any person to comply with otherwise applicable law. The City is not the appropriate entity for determining when FIFRA (or its state analog, CFAC)) requirements apply to third parties. EPA and the California Department of Pesticide Regulation (DPR) are responsible for determining whether any pesticide or pesticidal device requires registration under state and federal laws regulating pesticides. Third parties that have questions about the applicability of FIFRA or CFAC requirements to their devices should contact U.S. EPA or California DPR respectively. In the event that EPA or DPR do determine a BMP is a pesticidal device requiring registration, the device should be registered.

E-16

California Department of Pesticide Regulation ("DPR"), respectively, are responsible for the approval of products making antimicrobial claims to be distributed or used in California.⁴⁸ It is illegal to make these antimicrobial claims unless the product has been approved and registered with both agencies.⁴⁹

Appendix B of the Manual lists bacteria as a "Suspended Sediment and Particulate-bound [Pollutant]."⁵⁰ Performance Standard 6.2.2 concludes "Systems that provide effective TSS treatment also typically address trash, debris, and 'particulate bound' pollutants and serve as pre treatment for off-site mitigation projects."⁵¹ The Appendix then proceeds to provide a performance standard for TSS removal and the "Acceptable Flow-Thru Treatment Control of BMPs" which may be necessary at least in part to remove bacteria from influent.⁵²

Under federal law, bacteria are considered a pest in most cases.⁵³ Anything "which is intended for trapping, destroying, repelling, or mitigating any pest" is a device which must be registered with EPA under FIFRA.⁵⁴ "Any substance or mixture of substances intended for preventing, destroying or repelling, or mitigating any pest" or a device that relies on such a substance is a pesticide which must also be registered.⁵⁵ By claiming TSS removal will reduce bacteria, the Update is asserting that such flow-thru BMPs are at the very least devices under FIFRA, and may in fact be pesticides themselves depending on the makeup of any filter media. However, the Update provides no evidence that bacteria reducing BMPs are compliant with the federal laws and regulations regarding pest control products. California law further mandates that pesticides must be registered with the California Department of Pesticide Regulation.⁵⁶

By requiring the implementation of a BMP which is an unregistered antimicrobial product, the Update is requiring an illegal mitigation measure. The Update is therefore requesting implementation of an infeasible mitigation measure in dereliction of CEQA and other applicable laws.

Conclusion.

E-17

Initially, "[t]he task of the lead agency is not to determine whether the project will have a significant effect on the environment, but only whether it might have such an effect."⁵⁷ Accordingly, the initial study is the "preliminary analysis" that the lead agency prepares in order to determine whether to prepare a negative

⁴⁸ 7 U.S.C. § 136; CAL FOOD & AGRIC. § 12500 et seq.

⁴⁹ *Id.*

⁵⁰ Appendix B of Update at B-36 (hereinafter "Appendix B").

⁵¹ Appendix B at B-39.

⁵² *Id.* at B-39; *Id.* at B-40.

⁵³ 7 U.S.C. § 136(t).

⁵⁴ 7 U.S.C. § 136(h).

⁵⁵ 7 U.S.C. § 136(u); § 136a.

⁵⁶ CAL FOOD & AGRIC. § 12811.

⁵⁷ *Friends of Davis v. City of Davis* (3d Dist. 2000) 83 Cal. App. 4th 1004, 1016.

E-17 Please see Response to Comment Nos. E-11, 12 and 15.

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declaration or an EIR and, if necessary, to identify the impacts to be analyzed.⁵⁸ Here the initial study failed to recognize a multitude of environmental effects that will be caused by implementation of the Update in its current form, and then proceeded in a haphazard and erroneous fashion to produce a less than satisfactory MND for public review.

At various points throughout the MND, the City repeatedly claims “[t]he City is required to implement the Manual Update to ensure compliance with the Municipal Permit.” While that may be true, the City is also required to comply with CEQA. If the City is concerned they will not be able to implement the Update in a timeframe suitable to the Board because of their obligations under CEQA, then the City should address this with the Board. They should not, however, ignore their obligation to perform a thorough analysis of the environmental effects and significant environmental impacts created by adoption of the Update.

E-18

As indicated in the introduction of this letter, the Coalition will be submitting a comment letter to the Storm Water department regarding our general concerns with the Update. The concerns expressed in that document are incorporated herein by reference.

We look forward to your response to our comments, as well as the opportunity to review the more complete and adequate environmental analysis we expect the City to prepare to meet its obligations under CEQA.

Sincerely,

OPPER & VARCO LLP



S. Wayne Rosenbaum

cc: David Gibson, Executive Officer, San Diego Regional Water Quality Control Board
San Diego Association of Governments
California Coastal Commission
San Diego Regional Airport Authority
United States Fish & Wildlife Service
California Department of Fish & Wildlife
United States Army Corps of Engineers

Enclosures

⁵⁸ CEQA Guidelines § 15365.

E-18 Comment noted. The letters referenced in this comment follow directly after this response.

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LIST OF EXHIBITS

- EXHIBIT A –** Letter from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Jonard Talamayan, Junior Engineer, City of San Diego Storm Water Division (September 24, 2015)
- EXHIBIT B –** 2015 Regional Potential Critical Coarse Sediment Yield Area Maps
- EXHIBIT C –** Correspondence from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 10 and July 20, 2015)

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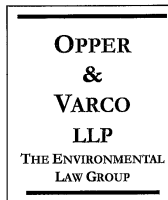
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September 24, 2015



Jonard Talamayan
Junior Engineer
City of San Diego Storm Water Division
9370 Chesapeake Drive, Suite 100
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Dear Mr. Talamayan:

I write on behalf of the Coalition¹ to provide comments on the City of San Diego's ("City") Draft Storm Water Standards Manual Update (the "Update") prepared by the Storm Water Division (the "Division").² We applaud the Division's diligent efforts to proceed with the adoption of the Update under the daunting time constraints imposed by the Regional Water Quality Control Board (the "Board"). The Update is an essential component of the new Municipal Storm Water Permit (the "Permit").³ However, given the unknown timing of various approvals for key components of the Update coupled with other concerns of the Coalition regarding this draft including, but not limited to, confusing language, conflicts with the City's General Plan and other land use policies, unworkable prescriptions, and questionable legality, the Coalition cannot support the Update in its current form.

We are therefore providing comments, questions, and in some cases, potential solutions to the following issues in the Update:

- The Update is incomplete without Alternative Compliance Programs ("ACPs"), Water Quality Improvement Plans ("WQIPs"), Watershed Management Area Analyses ("WMAAs"), and Water Quality Equivalency calculations ("WQEs"), and any approval of the Update in its current state would be premature, as well as an arbitrary and capricious action;

¹ The Coalition consists of associations and individuals representing various private stakeholders who have a keen interest in achieving water quality objectives within the San Diego region in the most efficient and cost effective manner possible. Members of the Coalition include, but are not limited to, the San Diego Building Industry Association, Associated General Contractors, Associated Builders and Contractors, the San Diego Regional Chamber of Commerce, the Business Leadership Alliance, the San Diego Association of Realtors, the San Diego Apartment Association, the National Association of Industrial & Office Properties (NAIOP), the Building Office & Management Association (BOMA), and the San Diego Chapter of the American Society of Landscape Architects.

² STORM WATER DIVISION, CITY OF SAN DIEGO, MODEL BMP DESIGN MANUAL SAN DIEGO REGION (2015).

³ Order No. R9-2013-0001 as Amended by R9-2014-0001 and R9-2015-0100.

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- The Update has numerous issues related to coarse sediment requirements, including a failure to provide adequate mitigation options. As currently worded, the coarse sediment requirements are in direct conflict with the Total Maximum Daily Load (“TMDL”) requirements for the Los Peñasquitos Watershed;
- The Update inappropriately and unlawfully delegates unfettered discretion to the City Engineer. Specifically, it grants discretion to disallow proprietary BMPs without any guidance criteria for the decision;
- The Update recommends the use of unregistered antimicrobial BMPs in violation of State and Federal Regulations;
- The Update is being submitted for approval based on an inadequate and generally deficient environmental review by the City’s Planning Department in violation of the California Environmental Quality Act (“CEQA”); and
- The Update creates conflicts between goals and policies of the City’s General Plan related to transit-oriented development, urban infill, housing supply, and greenhouse gas emission reductions.

In order to help the City, where possible the Coalition has offered suggestions on the above matters. We are also providing some specific suggestions regarding the following:

- Acceptance of certification under the Washington State Technology Assessment Protocol – Ecology (“TAPE”) program criteria or protocols developed under the New Jersey Center for Advanced Technology (“NJCAT”) as sufficient compliance criteria for approval of proprietary BMPs;
- Explicit inclusion of drywells in the Update as an approved infiltration BMP in the same manner as other approved infiltration BMPs; and
- The clarification of “Pre-Development runoff conditions” for sites that are redeveloped.

Consideration of the Coalition’s comments and suggestions set out below will not only improve the Update but substantially facilitate implementation of the Permit.

Approval of the Update without the WQIPs, WMAAs, ACPs, and WQEs is premature.

The Permit requires the Storm Water Standards Manual be updated, and the Board has ordered the Copermittees including the City to do so on an extremely aggressive schedule. Along with the Update, the Permit also requires creation and

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approval of a number of other documents and proposals. These include the Water Quality Improvement Plans ("WQIPs") which set the strategy for permit Compliance within particular hydrological areas, and the accompanying Watershed Management Area Analyses ("WMAAs") which provide an in depth analysis of the priorities for each area. The Alternative Compliance Program ("ACP") is an integral part of the Permit and allows Priority Development Projects ("PDPs") additional pathways to compliance, but requires an approved WMAA as well as the general approval of the metrics for determining the value of alternatives implemented under the ACPs in the form of Water Quality Equivalence formulas ("WQEs"). Thus, the Update does not exist in a vacuum, but is rather dependent on a complimentary series of plans, strategies, and tools designed to help applicants and Copermittees comply with the Permit.

At this time, the WQIPs and their WMAAs, WQEs, and ACP have yet to be approved by the Board as required by the Permit. This makes review of the Update difficult and speculative. The Board has recently provided comments following a preliminary review of the WQIPs and noted:

"At this time, the San Diego Water Board is providing general comments for all the Plans because **there are several issues of concern already identified that make the [WQIPs] unacceptable, as well as noncompliant with the requirements of the [Permit].**"(emphasis added.)⁴

Regarding the Watershed Management Area Analysis for the San Diego River, the Board found a proposed exemption from the hydromodification requirements insufficient as it lacked "a similar, thorough, and multiple lines of evidence approach analysis" that had only been conducted for one section.⁵ As the Board reminded all the Copermittees:

"Likewise, a Copermittee is not authorized to implement an Alternative Compliance Program . . . for any Priority Development Project within its jurisdiction until the optional Watershed Management Area Analysis . . . has been accepted as part of the Plan."⁶

The Board has also stressed the importance of WQEs to implementing key facets of the Update in a letter to the Copermittees:

"Accepted Water Quality Equivalency calculations must be incorporated as part of any Copermittee's alternative compliance program necessary for evaluating Watershed Management Area Analysis candidate projects, project applicant – proposed alternative compliance projects, alternative

⁴ Letter from Laurie Walsh, Senior Water Resource Control Engineer, San Diego Regional Water Quality Control Board, to San Diego County Principal Watershed Copermittees (August 5, 2015) at 2 (hereinafter "Walsh Letter").

⁵ Walsh Letter at 14.

⁶ Walsh Letter at 18.

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compliance in lieu fee structures, and alternative compliance water quality credit systems . . .”⁷

Important pieces of the Update remain unfinished, and based on the above comments by the Board, a significant amount of work remains to be done. Approval of the incomplete Update would thus be premature. This is best exemplified by the absence of approved Alternative Compliance Programs.

Alternative compliance is mentioned 92 times in the Update. The Permit states: “At the discretion of each Copermittee [PDPs] may be allowed to participate in an alternative compliance program in lieu of implementing the onsite structural BMP performance requirements . . . provided the Water Quality Improvement Plan includes the optional Watershed Management Area Analysis . . . and Water Quality Equivalency calculations have been accepted by the San Diego Water Board’s Executive Officer.”⁸ The City, through its CEQA documents and other sources, has expressed an intent to allow applicants to use ACPs to satisfy the Permit requirements, and given its prevalence, it is likely many PDPs would select this option.

The Update even requires Alternative Compliance be used in certain circumstances.⁹ Section 2.2.1 sets the Storm Water Pollutant Control Performance Standards.¹⁰ Under section 2.2.1(a)(ii), for those PDPs where it is technically infeasible to implement both retention and biofiltration BMPs, “the PDP shall utilize flow-thru treatment control BMPs . . . to treat runoff leaving the site, AND participate in alternative compliance to mitigate for the pollutants from the DCV not reliably retained onsite pursuant to Section 2.2.1.” (capitalization in original.)¹¹ Whether it is required or merely an extremely likely to be used alternative, ACP is an integral part of the Update, and it is not unreasonable to expect the Public to want to review the ACPs prior to approval of the Update.

The Update cannot be understood without WQIPs and WMAAs. Applicants cannot comply with the Update without ACPs which require WQEs and WQIPs that include WMAAs. If the applicants and professionals who deal with the Permit on a regular basis cannot even determine what is in the Update, it is highly unlikely the City Council will be able to either.

This problem can be avoided if the Division postpones submittal of the Update for approval until after the Board has approved the underlying documents. The Coalition urges the Division to do so. If this requires the City request additional time from the Board to complete these components, the Coalition will support such a request.

⁷ Permit § E.3.c.(3)(a) at 97.

⁸ *Id.*

⁹ Update at 2-7.

¹⁰ *Id.* at 2-5.

¹¹ *Id.* at 2-7.

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The requirements pertaining to coarse sediment in the Update are problematic in numerous ways.

There is a lack of adequate mitigation options available for dealing with coarse sediment.

Section 6.2.4 of the Update addresses management measures for protection of critical coarse sediment yield areas onsite. Avoidance of these areas is the preferred management measure.¹² If avoidance is infeasible, then a project applicant must "provide project-specific onsite measures," which are subject to jurisdictional approval.¹³ Section 6.2.4.2 then provides an example of a "potential method of analysis" for determining whether project-specific onsite measures avoid net impacts to receiving waters.¹⁴ Unfortunately, the example presented fails to provide sufficient guidance to allow compliance.

In his comment letter submitted to the Storm Water Division on September 24, 2015 ("Exhibit A"), Dr. Luis Parra, a San Diego State University Professor of Applied Hydrology, Applied Hydraulics, and Special Topics in Water Resources who has extensive experience assisting the public and private sectors in Southern California, provides a comprehensible and justified solution to address the issue of critical coarse sediment yield protection.¹⁵ He suggests defining a dimensionless index of Critical Coarse Sediment Net Impact. As explained in his letter, the index uses factors such as reduction of sediment transport via BMP design and protection of coarse sediment yield areas to ascertain whether a project has implemented sufficient management measures to avoid generating a net negative impact of critical coarse sediment to a receiving water. The Coalition supports the work of Dr. Parra, and urges the Division to incorporate his comments into the Update for the benefit of developers, Copermittees and other governmental entities who will have to comply with the update. This is particularly advisable for the City as the only options available at present appear to be disregarding the sediment yield problem entirely based on the particular characteristics of the receiving water or running the risk of a landowner or developer pursuing a takings claim against the City when they are informed they may not develop coarse sediment yield areas

The coarse sediment transport requirements explicitly conflict with the sediment TMDL for Los Peñasquitos Lagoon.

Los Peñasquitos Lagoon (Lagoon) is one of the few remaining coastal lagoons in Southern California and provides valuable estuarine habitat as well as numerous other important beneficial uses. Before significant population expansion and development, Los Peñasquitos Lagoon was a tidal influenced lagoon with a salt water marsh. Urbanization has resulted in fresh water intrusion altering the

¹² *Id.* at 6-7.

¹³ *Id.* at 6-8.

¹⁴ *Id.*

¹⁵ Letter from Dr. Luis Parra, Professor, San Diego State University to Jonard Talamayan, City of San Diego Storm Water Division (September 24, 2015).

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salinity of the Lagoon and resulting in excessive sedimentation, as well as the degradation and loss of estuarine habitat.¹⁶ The Lagoon does not meet the water quality objective for sediment. On the 1996 List of Water Quality Limited Segments, beneficial uses impaired by increased sedimentation are associated with protection of aquatic life (e.g., Estuarine Habitat, Marine Habitat, Rare, Threatened, or Endangered Species, and Preservation of Biological Habitats of Special Significance, etc.).¹⁷ The San Diego Water Board adopted Resolution No. R9-2012-0033, an amendment incorporating the Los Peñasquitos Lagoon Sediment TMDL into the San Diego Basin Plan on June 13, 2012. This TMDL Basin Plan Amendment was approved by the State Water Resources Control Board on January 21, 2014, and by the Office of Administrative Law (OAL) on July 14, 2014. United States Environmental Protection Agency (USEPA) approved the TMDL Basin Plan Amendment on October 30, 2014.

Like all WQIPs referred to in the Update, the WQIP for Los Peñasquitos watershed has yet to be approved by the Board. However, the draft WQIP includes actions intended to meet the TMDL requirements reducing sediment charges to the Lagoon. The Update requires coarse sediments continue to be discharged to the Lagoon. A total avoidance strategy will comply with the TMDL requirements but violate the Update. Allowing coarse sediment to continue being conveyed to the Lagoon satisfies the Update while violating the TMDL. The initial study and MND completely ignore both of these potential impacts, and further provide no suggestion as to how to resolve this conflict.

It has been suggested this lack of specificity was an unintentional oversight, as the sedimentation impairment addressed in the TMDL is directed at fine sediment. This oversight could be resolved through modifying the TMDL. But while the change in the language in the TMDL may be simple, approval of that change is anything but:

“Modifications to the requirements for TMDLs in [Attachment E of the Permit] cannot be made unless the TMDLs are modified in the Basin Plan.

“A modification to any aspect of a TMDL in the Basin Plan requires a Basin Plan amendment. A Basin Plan amendment to modify a TMDL will require the San Diego Water Board to adopt a resolution to amend the Basin Plan, which includes a separate public process. When the San Diego Water Board adopts a Basin Plan amendment, it subsequently requires approval from the State Water Board, the Office of Administrative Law, and the US EPA before it becomes effective.”¹⁸

¹⁶ Order No. R9-2012-0033, A RESOLUTION AMENDING THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO BASIN (9) TO INCORPORATE THE TOTAL MAXIMUM DAILY LOAD FOR SEDIMENTATION IN LOS PEÑASQUITOS LAGOON, http://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/los_penasquitos_lagoon.n.shtml. Last accessed September 24, 2015.

¹⁷ *Id.*

¹⁸ Attachment 2 to Tentative Order No. R9-2015-0100 at F-142 (hereinafter “Fact Sheet”).

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Even if the Division is willing to support a change in the TMDL, it is highly unlikely that change could be completed prior to the anticipated Effective Date of the Update. This is yet another reason premature approval of the Update would be arbitrary and capricious, and the Division must provide a solution to this dilemma before it submits the Update for approval.

The Update inappropriately and unlawfully delegates unfettered discretion to the City Engineer.

One of the most concerning aspects of the Update is its proclamation of ambiguous, arbitrary, and conflicting standards. The absence of approved supporting documents is problematic enough, but this becomes even more troubling when the Update causes the manual to contradict itself, let alone the Permit. In these situations, the City would be delegating unchecked authority to the City Engineer or their designee. The Coalition believes giving the City Engineer some reasonable flexibility to exercise his professional judgment when approving a device, process, or program can be a benefit to a project applicant, but this discretion cannot be absolute. The resulting lack of guidance, direction, or objective standard further makes the Update arbitrary, capricious, and derogation of the law.

The Update unlawfully gives the City Engineer discretion to approve or disapprove of proprietary BMPs without guidance.

An obvious example of this problem is the way the Update grants unchecked discretion to the City Engineer in determining whether a proprietary BMP is acceptable as a means of biofiltration.¹⁹ The City's Update is derived from the effort of Copermittees in the San Diego region subject to the Permit. Their collaborative efforts resulted in the Final Model BMP Design Manual for San Diego Region which forms the base template used by the City.²⁰ The "Purpose and Use" section of the Update explains that the Copermittees have adopted a "unified BMP design approach"²¹ These can be considered the general rules applicable and understandable by all who seek to comply.

The unified BMP design approach is not the only means applicants have of meeting the applicable performance standards. In asserting "[a]lternative BMP design approaches that meet applicable performance standards may also be acceptable," the Update explains:

"Applicants may choose not to use the unified design approach present in this manual, in which case they will need to demonstrate to the satisfaction of the Copermittee, in their submittal, compliance with applicable

¹⁹ Update at 5-16, -17.

²⁰ Final Model BMP Design Manual for San Diego Region (2015). Available online at http://www.projectcleanwater.org/index.php?option=com_content&view=article&id=250. Last accessed September 24, 2015.

²¹ Update at 1-2.

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performance standards. These performance standards are described in Chapter 2 and in Section E.3.c of the MS4 Permit.²²

Section E.3.c of the Permit provides an assortment of prioritized BMPs for PDPs.²³ This includes biofiltration BMPs, which are to be used in circumstances when retention of the DCV is infeasible.²⁴ A footnote to the design criteria for biofiltration BMPs in the Permit states:

“As part of the Copermittee’s update to its BMP Design Manual . . . **the Copermittee must provide guidance for hydraulic loading rates and other biofiltration design criteria necessary to maximize storm water retention and pollutant removal.**”(emphasis added).²⁵

The Permit therefore explicitly requires the Update “provide guidance” regarding BMPs. The Update fails to satisfy this obligation completely. The “guidance” provided for proprietary BMPs reads:

“Other BMPs, including proprietary BMPs (See fact sheet BF-3) may be classified as biofiltration BMPs if they (1) meet the minimum design criteria listed in Appendix F, including the pollutant treatment performance standard in Appendix F.1, (2) are designed and maintained in a manner consistent with their performance certifications, if applicable, **and (3) are acceptable at the discretion of the [City Engineer]**. The applicant may be required to provide additional studies and/or required to meet additional design criteria beyond the scope of this document in order to demonstrate that these criteria are met.”²⁶ (emphasis added.)

Appendices F.1 and F.2 provide straight forward design criteria, satisfying the Permit criteria. However, there is no readily discernable guidance regarding what will or will not be “acceptable at the discretion of the City Engineer.” The Update hints that perhaps the provision of additional studies and or design criteria may be useful in satisfying the design criteria of the Appendices, but again whether the proprietary BMP will be deemed acceptable is completely unknown. The Update may have intended the discretion be guided by the prefatory language in Section 5.5, which states:

“The BMP designs described in the BMP Fact Sheets (Appendix E) shall constitute the allowable storm water pollutant control BMPs for the purpose of meeting storm water management requirements. **Other BMP types and variations on these designs may be approved at the discretion of the [City Engineer] if documentation is provided**

²² *Id.*

²³ Permit § E.3.c at 93-101.

²⁴ Permit § E.3.c(1)(a)(i) at 94.

²⁵ *Id.* at n. 29.

²⁶ Update at 5-16, -17.

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demonstrating that the BMP is functionally equivalent or better than those described in this manual.²⁷ (emphasis added.)

If the City intended the above criteria of providing sufficient documentation that a proprietary biofiltration BMP is demonstrated to be “functionally equivalent or better” to function as guidance, it should make this guidance explicit.

Numerous sections of the Manual grant the City Engineer discretion to approve or disapprove selection of BMPs or other storm water control measures. For instance, Section 5.2.3 of the Update articulates the requirements for Self-Retaining Drainage Management Areas (“DMAs”).²⁸ In addition to providing specific requirements for using this category of DMA, it also notes:

“[The City Engineer]” may accept or reject a proposed self-retaining DMA meeting these criteria at its discretion. Examples of rationale for rejection may include the potential for negative impacts (such as infiltration or vector issues), potential for significant future alteration of this feature, inability to visually inspect and confirm the feature, etc.”²⁹

A situation like this is significantly less problematic than the one with proprietary BMPs. By providing specific rationales for rejection, an applicant can address these potential issues during the design phase or at least understand why a DMA is unacceptable in the City Engineer’s mind.

It has been suggested the reason the City Engineer needs to be allowed to exercise discretion is the City’s concern about potential future operation and maintenance cost should the BMP ever become the responsibility of the City. However, there are alternative means to accomplish this without granting an unchecked amount of discretion. Again, we emphasize City Engineers should be given some flexibility to use their professional judgment with proper guidance, direction, and objective standards.

In order to alleviate some confusion on this point, the Coalition suggests the City clarify that proprietary BMPs certified under the Washington State Technology Assessment Protocol-Ecology (“TAPE”) certification program or the New Jersey Center for Advanced Technology (“NJCAT”) that also meet the minimum design criteria in Appendix F of the Update are “functionally equivalent or better than those described in [the] Manual” and explicitly approved for use in meeting the requirements of the Manual and the Update. The City has already approved these sets of standards, and by eliminating the potentially unlawful unbounded discretion of the City Engineer in the approval process, this change would make BMP approval more efficient and predictable in most situations.

²⁷ *Id.* at 5-12.

²⁸ *Id.* at 5-6.

²⁹ *Id.* at 5-7.

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The Update recommends the use of unregistered antimicrobial BMPs in violation of State and Federal Regulations.

On several occasions, representatives of the Coalition have written to City staff and the RWQCB expressing concerns that the Update makes assertions about methodologies for the determination of the safety and efficacy of treatment control BMPs that make antimicrobial claims.³⁰ Under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") and the California Food and Agriculture Code, US EPA and the California Department of Pesticide Regulation ("DPR"), respectively, are responsible for the approval of products making antimicrobial claims to be distributed or used in California.³¹ It is illegal to make these antimicrobial claims unless the product has been approved and registered with both agencies.³²

Appendix B of the Manual lists bacteria as a "Suspended Sediment and Particulate-bound [Pollutant]."³³ Performance Standard 6.2.2 concludes "Systems that provide effective TSS treatment also typically address trash, debris, and "particulate bound" pollutants and serve as pre- treatment for off-site mitigation projects."³⁴ The Appendix then proceeds to provide a performance standard for TSS removal and the "Acceptable Flow-Thru Treatment Control of BMPs" which may be necessary at least in part to remove bacteria from influent.³⁵

By claiming TSS removal will reduce bacteria, the Manual is asserting that such flow-thru BMPs are at the very least devices under FIFRA, and may in fact be pesticides themselves depending on the makeup of any filter media. However, the Manual provides no evidence that bacteria reducing BMPs are compliant with the federal laws and regulations regarding pest control products. California law further mandates that pesticides must be registered with the California Department of Pesticide Regulation.³⁶ By requiring the implementation of a BMP which is an unregistered antimicrobial product, the Manual is endorsing an illegal mitigation measure and further making representations which are arbitrary, capricious, and in derogation of law.

In order to avoid potential violations of state and federal law and to avoid any delay in the adoption of the Manual as a whole, the Coalitions suggests the following language be inserted into the Manual:

"Structural BMPs that are intended to act as antimicrobial devices are subject to regulation by EPA and the California Department of

³⁰ Letter from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 10, 2015); Email from S. Wayne Rosenbaum, Partner Oppen & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 20, 2015)(collectively attached hereto as "Exhibit B").

³¹ 7 U.S.C. § 136; CAL FOOD & AGRIC. § 12500 et seq.

³² *Id.*

³³ Appendix B of Update at B-36 (hereinafter "Appendix B").

³⁴ Appendix B at B-39.

³⁵ *Id.* at B-39; *Id.* at B-40.

³⁶ CAL FOOD & AGRIC. § 12811.

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Pesticide Regulation ("DPR"). The term device means any instrument or contrivance which is intended for trapping, destroying, repelling, or mitigating any pest including bacteria and viruses. Devices may include, but are not limited to, proprietary BMPs. For example, sand filter or infiltration BMPs intended to trap or destroy microbes are devices subject to regulation by EPA and DPR. A device does not have to directly control a pest to be a pesticidal device. It is enough if the device indirectly controls a pest. Where a proposed structural BMP is intended to address multiple pollutants, only the BMP component intended to have any antimicrobial effect need to be registered with the appropriate regulatory agency. TAPE or NJCAT evaluations may not be available for devices that incorporate antimicrobial capabilities as well as other pollutant removal claims. In such cases the Copermittee may rely on third party technical reviews and assessments of the device in determining its combined antimicrobial and other pollutant removal capabilities.

"An instrument or contrivance is intended to be an antimicrobial device subject to EPA and DPR regulation if the person who designs, distributes or sells the device claims, states or implies (by labeling or otherwise) that the produce can or should be used as an antimicrobial device or if the person who designs, distributes or sells the device has actual or constructive knowledge that the produce will be used for antimicrobial purposes. Copermittees must confirm that any structural BMP for which antimicrobial claims are made or implied or for which the Copermittee has actual or constructive knowledge that the BMP will be used for antimicrobial purposes complies with federal and state requirements."

The Update is being submitted for approval based on an inadequate and generally deficient CEQA review by the Planning Department.

In order to adopt the Manual, the City must perform the rigorous environmental review of potential impacts required by the California Environmental Quality Act ("CEQA"). The Update qualifies as a "project" subject to CEQA, and review of the project is conducted by the Planning Department (the "Department").³⁷ The review process can take several forms and may vary in the extent of its analysis, but the level of analysis required is based on a complicated mix of statute, guidelines, regulations, case law, and the anticipated impacts of the proposed project. Suffice to say, the more expansive and far reaching the potential impacts of a project, the greater level of analysis is required.

Here, the Department has limited its preliminary analysis in such a way as to ignore or understate the significant potential impacts of the Update, and proposes based on this insufficient analysis that the City approve a mitigated negative declaration ("MND") instead of undergoing the more thorough and diligent work required for an environmental impact report ("EIR"). As part of the mandatory

³⁷ CEQA Guidelines § 15378.

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public review process, the Coalition has submitted a comment letter, a copy of which is attached as Exhibit C, and incorporated herein by reference.³⁸ This letter articulates the numerous deficiencies of the MND, and recommends the City reassess the impacts of the project and propose appropriate mitigation measures. This will most likely require the City complete a full EIR.

Though the Division is not responsible for the CEQA review process, it is important they understand that not only can the Manual not be adopted without certification of a legally sufficient CEQA document by the City, but that the CEQA process itself serves the important role of ensuring that projects such as the Manual do not otherwise negatively impact the environment without mitigating these adverse effects. The Coalition therefore urges the Division to not support the deficient MND circulated by the Department, and demand the Department perform an adequate review of the Manual and its potential environmental impacts, and provide the appropriate mitigation as required by CEQA.

The Update creates conflicts between goals and policies of the City's General Plan related to transit-oriented development, urban infill, housing supply, and greenhouse gas emission reductions.

The purpose of the Update is to implement the new requirements of the Permit, including the prioritization of preferred storm water practices. This includes the requirement that PDPs retain the DCV when possible. However, development in the City of San Diego must also consider the goals and policies of the City's General Plan. The General Plan encourages transit-oriented development, consisting of high density and high intensity urban areas of the city. The retention requirements will directly thwart efforts of meeting this goal by eliminating the land available for infill development. This will prevent the City from contributing to the greater region's housing supply. It will adversely affect implementation of the "Green Streets" program or other desirable but less preferred BMPs, especially when alternative compliance programs remain unavailable. This also undermines the City's compliance with the Climate Action Plan, and will prevent the City from making substantial reductions in greenhouse gas emissions.

Other Issues.

Dry Wells should be included in the Update as an approved method for infiltration.

Members of the Coalition have previously submitted comments to the Division regarding the unexplained absence of dry wells from the Update.³⁹ The Permit considers on-site retention a primary LID method of storm water management,

³⁸ Letter from S. Wayne Rosenbaum, Partner, Oppen & Varco LLP to Myra Herrmann, Environmental Planner, City of San Diego Planning Department (September 24, 2015)(exhibits omitted)(hereinafter "Exhibit C").

³⁹ Letter from Hal Schillinger, Technical Marketing Engineer, Torrent Resources, Inc. to Sumer Hasenlin, Senior Civil Engineer, City of San Diego (September 1, 2015)(hereinafter "Exhibit D").

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which includes infiltration. The 2012 Storm Water Standards Manual refers to dry wells in numerous places, however dry wells are now inexplicably absent from the Manual.⁴⁰ Given the impermeable clays and silts normally found at or close to the surface in the San Diego region, the proven effectiveness of dry wells as an infiltration BMP should not be overlooked. Therefore, the Coalition requests the explicit inclusion of dry wells as an approved method for infiltration in the Manual, along with the appropriate discussion, design criteria, and BMP Design Fact Sheet befitting this proven and reliable BMP.

Definition of Pre-Development Runoff Conditions as it Applies to Redevelopment Sites

Appendix C of the Permit defines Pre-Development Runoff Conditions as:

“Approximate flow rates and durations that exist or existed onsite before land development occurs. For new development projects, this equates to runoff conditions immediately before project construction. For redevelopment projects, this equates to runoff conditions from the project footprint assuming infiltration characteristics of the underlying soil, and existing grade. Runoff coefficients of concrete or asphalt must not be used. A redevelopment Priority Development Project must use available information pertaining to existing underlying soil type and onsite existing grade to estimate pre-development runoff conditions.”⁴¹

This highly technical definition is made more confusing by the ambiguous phrase “infiltration characteristics of the underlying soil.” It is unclear whether this phrase means as the underlying soil **is now** in its compacted state, or as the underlying soil **was before** any development had ever occurred (i.e. Pre-Columbian).

In early May 2013, members of the Coalition met with Board staff seeking clarity on this issue. During that meeting, one staff member adamantly denied pre-Columbian conditions were the standard, and explained what the Permit requires is a pre-developed runoff condition equivalent to what would exist if one removed the paving and the buildings, leaving the underlying soil.⁴² The Board staff who worked on the permit intended there to be a real difference between “infiltration characteristics of the underlying soil” and “pre-Columbian.”

The distinction in the definition provided in the Permit between “development projects” and “redevelopment projects” suggests “available information pertaining to existing underlying soil type” means “existing conditions without concrete or

⁴⁰ Available online at <http://www.sandiego.gov/stormwater/regulations/index.shtml>. Last accessed September 24, 2015.

⁴¹ Appendix C to Permit at C-9.

⁴² Email correspondence between Tory Walker, Professional Engineer, Tory R. Walker Engineering and Laurie Walsh, Senior Water Resources Control Engineer, San Diego Water Board (July 29 and September 16, 2015)(hereinafter “Exhibit E”).

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asphalt.”⁴³ In addition, the term “before land development occurs” at the beginning of the definition refers to the *proposed* land development occurred rather than *any* past land development occurred.⁴⁴ Recently, a member of the Coalition submitted this analysis and its conclusions to Laurie Walsh at the Board for confirmation. Ms. Walsh replied “[i]n short, we agree with [the] understanding of the definition of pre-development runoff conditions.”⁴⁵

In order to effectuate the true intent of the Permit, the Coalition asks the Division to include language in the Manual that clarifies the definition of pre-development runoff conditions for redevelopment projects means existing conditions without concrete or asphalt before the proposed development takes place. The Coalition proposes the following language for Section 6.3.3 to be consistent with the Board’s understanding:

6.3.3 Requirement to Control to Pre-Development Condition

The MS4 Permit requires that post-project runoff must be controlled to match predevelopment runoff conditions for the range of flow rates to be controlled.

Pre-development runoff conditions are defined in the MS4 Permit as “approximate flow rates and durations that exist or existed onsite before the proposed land development occurs.”

Redevelopment PDPs: Use available maps or development plans that depict the topography of the site prior to development otherwise use existing onsite grades if historic topography is not available. Assume the infiltration characteristics of the underlying soil in its existing condition. Use available information pertaining to existing underlying soil type such as soil maps published by the National Resource Conservation Service (NRCS) and/or previously approved soils reports. Do not use runoff parameters for concrete or asphalt (i.e., impervious) to estimate pre-development runoff conditions. If compacted soils conditions exist, however, runoff parameters for that runoff condition may be assumed.

New development PDPs: The pre-development condition typically equates to runoff conditions immediately before project construction. However if there is existing impervious area onsite, as with redevelopment, the new development project must not use runoff parameters for concrete or asphalt (i.e., impervious) to estimate pre-development runoff conditions. If compacted soils conditions exist, however, runoff parameters for that runoff condition may be assumed.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

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Conclusion.

The Coalition is aware implementation of the Permit, including the revisions to the Update and drafting of other relevant materials, is a tremendous undertaking for the Storm Water Division. The Coalition is also well aware of the time constraints facing the City and other Copermitees to get these documents approved.

As a leading Copermitee, other Copermitees will look to the City's Update when updating their own manuals. The reasonable concerns of the Coalition will likely be echoed by other stakeholders in other jurisdictions. It is thus imperative the Update address these concerns raised in this letter, and where applicable, implement the suggested changes of the Coalition to the Manual. This will allow the City to set a positive example for other Copermitees while at the same time improving the Manual and ensuring a greater likelihood of project approvals, Permit compliance, and tangible water quality improvements.

We are happy to provide any additional information or assistance the Storm Water Division requires to effectuate these requests in their revisions to the Update. We thank you for the opportunity to submit these comments in an effort to make your Update as complete and user friendly as possible.

Sincerely,

OPPER & VARCO LLP

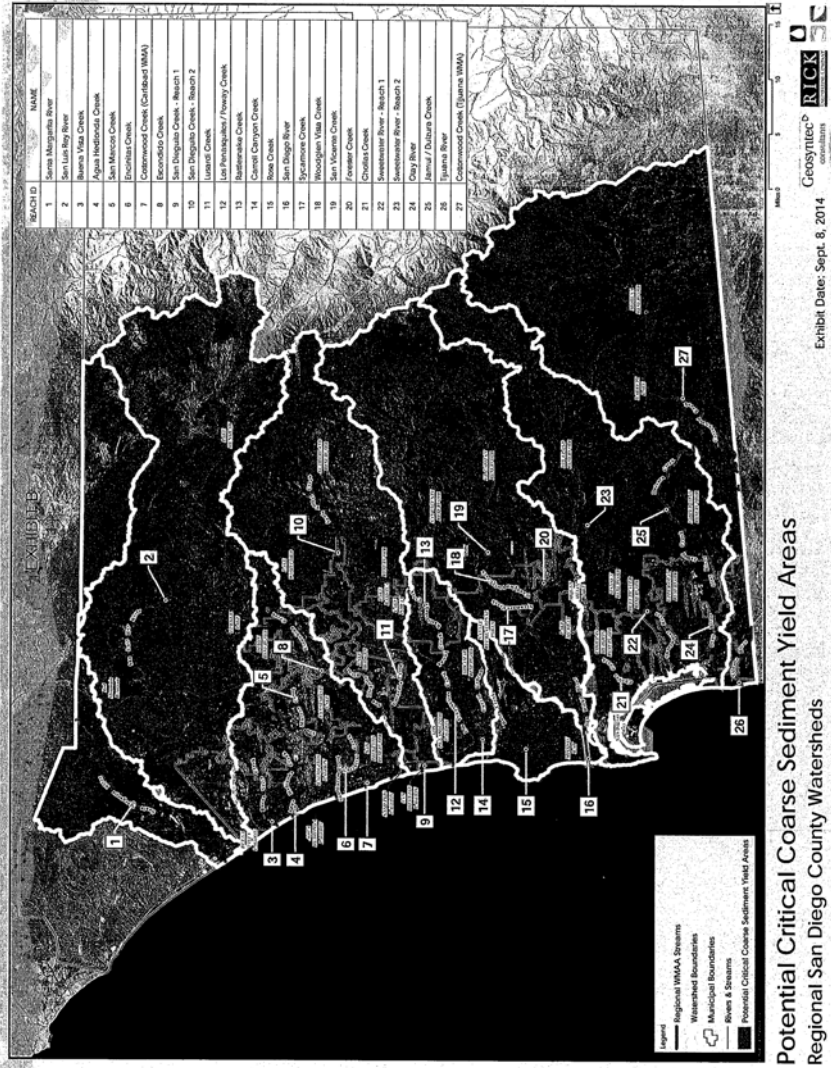


S. Wayne Rosenbaum

cc: David Gibson, Executive Officer, San Diego Regional Water Quality
Control Board
San Diego Association of Governments
California Coastal Commission
San Diego Regional Airport Authority
United States Fish & Wildlife Service
California Department of Fish & Wildlife
United States Army Corps of Engineers

Enclosures

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EXHIBIT C

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July 10, 2015

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Via E-mail syhasenin@sandiego.gov and US Postal Service

Ms. Sumer Hasenin
City of San Diego
Senior Civil Engineer
Pollution Prevention Division
Storm Water Department
9370 Chesapeake Dr.
Suite 100
MS 1900
San Diego, CA 92123

RE: Revisions to the Draft BMP Design Manual to avoid violations of
FIFRA Section 12(a) and the California Food and Agriculture Code
12751 et. seq. by the Draft BMP Design Manual

Please accept this writing and the attachments hereto as forma comments on the Draft BMP Design Manual ("Manual") for incorporation into the administrative record before the Regional Water Quality Control Board and the City of San Diego. I write today to follow up on my previous correspondence regarding the above referenced matter. As more fully described in my previous correspondence attached hereto, the current Manual makes assertions about methodologies for the determination of the safety and efficacy of treatment control Best Management Practices ("BMPs") that act as antimicrobial devices without recognizing the exclusive authority of US EPA and the California Department of Pesticide Regulation ("DPR") to make such determinations. The representations in the Manual that the BMP selection methodologies described therein will result in the adoption of BMPs that are both safe and effective antimicrobial treatments is a violation of both state and federal law. The inclusion of such representations in the Manual is arbitrary, capricious, and in derogation of law.

In order to avoid potential violations of state and federal law and to avoid any delay in the adoption of the Manual as a whole we suggest that the following language be inserted into the Manual:

Structural BMPs that are intended to act as antimicrobial devices are subject to regulation by EPA and the California Department of Pesticide Regulation ("DPR"). The term device means any instrument or contrivance which is intended for trapping, destroying, repelling, or mitigating any pest including bacteria and

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viruses.¹ Devices may include, but are not limited to, propriety BMPs. For example, a sand filter or infiltration BMP intended to trap or destroy microbes is a device subject to regulation by EPA and DPR. A device does not have to directly control a pest to be a pesticidal device. It is enough if the device indirectly controls a pest.²

An instrument or contrivance is intended to be an antimicrobial device subject to EPA and DPR regulation if the person who designs, distributes or sells the device claims, states or implies (by labeling or otherwise) that the product can or should be used as an antimicrobial device or if the person who designs, distributes or sells the devices has actual or constructive knowledge that the product will be used for antimicrobial purposes.³ Copermitees must confirm that any structural BMP for which antimicrobial claims are made or implied or for which the Copermitee has actual or constructive knowledge that the BMP will be used for antimicrobial purposes complies with federal and state requirements.

Sincerely,

OPPER & VARCO LLP



S. Wayne Rosenbaum

/swr

cc: David Gibson DGibson@waterboards.ca.gov
 Susan Shinkman Shinkman.susan@EPA.gov
 Jahan Motakef Jahan.Motakef@cdpr.ca.gov
 Peggy Byerly Peggy.Byerly@cdpr.ca.gov

¹ 7 U.S.C. 136

² EPA, Enforcement Alert: Aquarium and Pond Chemical May Require Federal Registration.
<http://nepis.epa.gov/Exe/ZyNET.exe/500003RK.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1995+Thru+1999&Docs=&Query=&Time=&EndTime=&SearchMethod=1&ToRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czfiles%5CIndex%20Data%5C95thru99%5Ctxt%5C0000016%5C500003RK.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=p%7C&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL>

³ 40 C.F.R. 152.15

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From: Wayne Rosenbaum
To: "Josh Rosenbaum"
Subject: FW: Further comments regarding structural BMPs and Antimicrobial claims.
Date: Wednesday, September 16, 2015 2:40:36 PM

I will be out of the Country from September 16 to September 24 with limited access to phones or e-mail. In my absence, please feel free to contact Josh Rosenbaum at 619-920-1535 or jtrosenb@gmail.com or my partner, Suzanne Varco, at 619-231-5858 or svarco@envirolawyer.com.

S. Wayne Rosenbaum
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Cell: (619) 518-6618
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From: Wayne Rosenbaum
Sent: Monday, July 20, 2015 7:46 AM
To: Sumer Hasenin (syhasenin@sandiego.gov)
Cc: David Gibson (DGibson@waterboards.ca.gov); Walsh, Laurie (Laurie@Waterboards); Miles, James; Rodriguez, Roberto; 'Johan.Motakel' (jmotakel@cdpr.gov); 'Peggy.Byerly' (byerly@cdpr.ca.gov)
Subject: Further comments regarding structural BMPs and Antimicrobial claims.

Sumer:

Further to my previous letter, a question arose regarding the incorporation of registered antimicrobial devices in BMP treatment trains intended to treat for multiple pollutants. This issue has arisen in other water treatment systems such as under sink and whole house water treatment systems. Based on EPA's treatment of those types of systems, the system as a whole can make antimicrobial claims if the system component intended to have an antimicrobial effect is registered with EPA. In order to clarify this point. We suggest that the language of the proposed footnote for the BMP Design Manual be modified as follows:

Structural BMPs that are intended to act as antimicrobial devices are subject to regulation by EPA and the California Department of Pesticide Regulation ("DPR"). The term device means any instrument or contrivance which is intended for trapping, destroying, repelling, or mitigating any pest including bacteria and viruses. Devices may include, but are not limited to, propriety BMPs. For example, a sand filter or infiltration BMPs intended to trap or destroy microbes are devices subject to regulation by EPA and DPR. A device does not have to directly control a pest to be a pesticidal device. It is enough if the device indirectly controls a pest. Where a proposed structural BMP is intended to address multiple pollutants, only the BMP component intended to have an antimicrobial effect

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need be registered with the appropriate regulatory agency. Technology Assessment Protocol-Ecology ("TAPE") or Technology Assessment Reciprocity Partnership ("TARP") evaluations may not be available for devices that incorporate antimicrobial capabilities as well as other pollutant removal claims. In such cases the Copermitee may rely on third party technical reviews and assessments of the device in determining its combined antimicrobial and other pollutant removal capabilities.

Please accept this e-mail as part of the administrative record regarding the adoption of the BMP Design Manual. Look forward to seeing the revisions.

Wayne

S. Wayne Rosenbaum
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LIST OF EXHIBITS

- EXHIBIT A - Letter from Dr. Luis Parra, Professor, San Diego State University to Jonard Talamayan, City of San Diego Storm Water Division (September 24, 2015).
- EXHIBIT B - Letter from S. Wayne Rosenbaum, Partner, Opper & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 10, 2015); Email from S. Wayne Rosenbaum, Partner Opper & Varco LLP to Sumer Hasenin, Senior Civil Engineer, City of San Diego (July 20, 2015)(collectively attached hereto as "Exhibit B").
- EXHIBIT C - Letter from S. Wayne Rosenbaum, Partner, Opper & Varco LLP to Myra Herrmann, Environmental Planner, City of San Diego Planning Department (September 24, 2015)(exhibits omitted)(hereinafter "Exhibit C").
- EXHIBIT D - Letter from Hal Schillinger, Technical Marketing Engineer, Torrent Resources, Inc. to Sumer Hasenin, Senior Civil Engineer, City of San Diego (September 1, 2015)(hereinafter "Exhibit D").
- EXHIBIT E - Email correspondence between Tory Walker, Professional Engineer, Tory R. Walker Engineering and Laurie Walsh, Senior Water Resources Control Engineer, San Diego Water Board (July 29 and September 16, 2015)(hereinafter "Exhibit E").

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Revised Initial Study Checklist

1. Project title/Project number: **STORM WATER STANDARDS MANUAL UPDATE/PROJECT NO. 435930 (SCH No. 2015081066)**
2. Lead agency name and address:
CITY OF SAN DIEGO – PLANNING DEPARTMENT
1222 1ST AVENUE, MS 501
SAN DIEGO, CALIFORNIA 92101
3. Contact person and phone number: Myra Herrmann, Senior Planner (619-446-5372)
4. Project location: City of San Diego jurisdiction in the following six watershed management areas (WMAs): San Dieguito River, Los Peñasquitos, Mission Bay, San Diego River, San Diego Bay, and Tijuana River.
5. Project Applicant/Sponsor's name and address:
CITY OF SAN DIEGO
TRANSPORTATION & STORM WATER DEPARTMENT
STORM WATER DIVISION
ATTN: SUMER HASENIN
9370 CHESAPEAKE DRIVE, SUITE 100
SAN DIEGO, CALIFORNIA 92123
(858) 541-4330
6. General/Community Plan designation: The project affects all General Plan and Community Plan land use designations.
7. Zoning: The San Diego Municipal Code and Land Development Code regulate the use and development of land within the area covered by the Storm Water Standards within the City of San Diego.
8. Description of project: **CITY COUNCIL APPROVAL OF THE STORM WATER STANDARDS MANUAL UPDATE** to update the City's storm water-related requirements for land development and construction activities in accordance with the 2013 Municipal Permit (Municipal Permit).

The Manual Update provides design concepts and methodologies to guide applicants in meeting the requirements of the 2013 Municipal Permit, Provision E.3 and Provision E.4.

The Manual Update, Part 1, addresses expanded and updated post-construction storm water requirements for Standard Projects and PDPs, and provides updated procedures for planning, selecting, and designing structural storm water BMPs based on the performance standards and requirements in the Municipal Permit.

Structural BMPs are engineered facilities that are designed to retain, detain, filter, remove, or prevent the release of pollutants to surface waters from development projects in perpetuity,

after construction of a project is completed. Structural BMPs are a type of Low Impact Design that aims to mimic the natural hydrology to manage storm water pollutant on site. Structural BMPs utilize biological, chemical and physical processes to remove pollutants from storm water runoff before it's discharged to water ways. Examples of structural BMPs are bioretention basins, infiltration trenches, rain gardens, vegetated swales, biofiltration basins, and planter boxes.

The Municipal Permit requires all Priority Development Projects (PDP) to implement structural BMPs to retain onsite pollutants contained in the volume of storm water runoff produced from a 24-hour 85th percentile storm event (referred to as Design Capture Volume, or DCV). If it is not technically feasible to implement retention BMPs for the full DCV onsite for a PDP, then the PDP is required to utilize biofiltration BMPs for the remaining volume not reliably retained. If biofiltration BMPs are not technically feasible, then the PDP is required to utilize flow-thru treatment control BMPs to treat runoff leaving the site and participate in alternative compliance to mitigate for the pollutants from the DCV not reliably retained onsite.

All Standard and Priority Development Projects are required to submit project plans for City review to ensure that individual projects comply with the Manual Update requirements. PDPs must submit a Storm Water Quality Management Plan (SWQMP), which includes details of the project's site design, source control, and structural BMPs, as well as BMP operation and maintenance requirements. For public and private projects, plan reviews are conducted by the City's Storm Water Division and Development Services Department Engineering staff, respectively. In addition, Engineering staff also review project submittal packages to ensure that the DS-560: Storm Water Applicability Checklist is filled out correctly; that drainage area delineations are correct; verify that the correct runoff coefficient (C-value) calculations are used; verify hydrology calculations for every drainage area; verify hydraulic calculations; and verify BMP sizing calculations.

The Manual Update categorizes structural BMPs in three categories based on the unit processes utilized in the BMP design. The BMP selection from these categories is largely based on the site conditions.

Infiltration BMPs: BMPs that are designed to retain the full design capture volume. Structural BMPs in this category include the following:

- Infiltration BMPs typically consist of an earthen basin with a flat bottom constructed in naturally pervious soils. Infiltration BMPs capture, store, and infiltrate storm water runoff into native soils.
- Bioretention BMP facilities are vegetated surface water systems that filter water through vegetation and soil, or engineered media prior to infiltrating into native soils.
- Permeable pavement BMPs allow for percolation through void spaces in the pavement surface into subsurface layers. The subsurface layers are designed to provide storage of storm water runoff so that outflows, primarily via infiltration into subgrade soils or release to the downstream conveyance system, can be at controlled rates.

Partial Infiltration BMPs: Infiltration of a significant portion of the DCV may be possible, but site factors may indicate that infiltration of the full DCV is either infeasible or not desirable. Structural BMPs in this category include the following:

- Biofiltration with partial retention BMPs are shallow basins filled with treatment media and drainage rock that manage storm water runoff through infiltration, evapotranspiration, and biofiltration. These BMPs typically have an infiltration storage layer. The volume of biofiltered water above the infiltration storage layer is discharged via underdrain. Other components include a media layer and associated filtration rates, drainage layer with associated in-situ soil infiltration rates, and vegetation.

No Infiltration BMPs: Infiltration of any appreciable volume of the DCV should be avoided. Some incidental volume losses may be possible, but any appreciable quantity of infiltration would introduce undesirable conditions. Structural BMPs in this category include the following:

- Harvest and use BMPs capture and store storm water runoff for later use. Uses of captured water may include irrigation demand, indoor non-potable demand, industrial process water demand, or other demands. Uses of captured water shall not result in runoff to storm drains or receiving waters.
- Biofiltration BMPs are shallow basins filled with treatment media and drainage rock that treat storm water runoff by capturing and detaining inflows prior to controlled release through incidental infiltration, evapotranspiration, or discharge via underdrain or surface outlet structure. Biofiltration BMPs include impermeable liners located at the bottom of the BMP to prevent infiltration.
- Flow-thru treatment control BMPs (vegetated swales, media filters, sand filters, dry extended detention basin, proprietary flow-thru treatment control) are structural, engineered facilities that are designed to remove pollutants from storm water runoff using treatment process that do not incorporate significant biological methods.

Detailed descriptions of the structural BMPs are included in Chapter 5 of the Manual Update. Fact sheets for sizing and designing BMPs are located in Appendix E of the Manual Update. In addition to satisfying pollutant control requirements, PDPs subject to hydromodification management requirements must provide flow control for post-project runoff to meet the flow control performance standard. Flow control for hydromodification management is typically accomplished using structural BMPs that may include any combination of infiltration basins; bioretention, biofiltration with partial retention, or biofiltration basins; or detention basins. Both storm water pollutant control and flow control for hydromodification management can be achieved within the same structural BMP(s) or by a series of structural BMP(s). Guidance on how to design these structural BMPs to satisfy both pollutant control and hydromodification management requirements is provided in Chapter 6 of the Manual Update.

Notable changes required by the Municipal Permit related to development planning requirements that have been incorporated in the Manual Update, Part 1 include:

- Priority Development Projects Category: The size threshold for PDP categories has been reduced from 1 acre to 10,000 square feet of impervious area for commercial, industrial, mixed-use, and public development projects. Additionally, the size threshold for residential PDPs has been reduced from 10 dwelling units to 10,000 square feet of impervious area.
- The RWQCB has ~~announced that it intends to make further~~ adopted amendments to the 2013 Municipal Permit ~~in November 2015 to change on November 18, 2015 via Order No. R9-2015-0100, which changes~~ the PDP categories. The ~~proposed~~ amendments would increase the number of projects considered to be PDPs by including: (1) new and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface; and (2) new development projects or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, that support automotive repair shops or retail gasoline outlets.
- Pollutant Control Requirements: PDPs are required to implement structural BMPs to retain the 85th percentile storm event. For situations where on-site retention of the 85th percentile storm volume is not feasible, bio-filtration must be provided to satisfy specific performance standards.
- Priority Development Project Exemption: Projects that either (1) redevelop existing paved alleys, streets, or roads OR (2) develop or retrofit paved sidewalks, bicycle lanes, or trails may be exempted from being required to meet PDP requirements if they include green infrastructure design elements in accordance with the USEPA document “*Managing Wet Weather with Green Infrastructure – Municipal Handbook*”. The Manual Update provides further guidance on green streets design requirements for PDP exemptions. New or retrofit paved sidewalks, bicycle lanes, or trails may also be exempt if they are designed and constructed to direct storm water runoff to non-erodible permeable areas or are hydraulically disconnected from paved streets or roads.
- Hydromodification Management BMP Requirements: The Manual Update continues to require the current Hydromodification Management criteria on PDPs with the following changes based on new requirements in the ~~2015~~ 2013 Municipal Permit: (a) exemptions from this requirement will be allowed in fewer cases, and exemptions for highly urbanized areas and for a portion of major river reaches are removed; (b) calculations for the increase of runoff volume from impervious surfaces must compare post-project runoff to runoff from a “pre-developed” condition, meaning the condition before existing impervious surfaces were added; and (c) sites that meet criteria for providing a natural source of coarse sediment that is critical for stream sediment replenishment need to either restrict development on those source areas or follow the project specific onsite measures as described in the Manual Update.
- Alternative Compliance Option: The Municipal Permit provides off-site Alternative Compliance as an option for PDPs in lieu of implementing on-site structural BMPs to comply with pollutant control and hydromodification management requirements. The off-site alternative compliance may include off-site mitigation options in the following categories:
 - Stream or riparian area rehabilitation
 - Retrofit of existing infrastructure

- Regional BMPs
- Groundwater recharge
- Water supply augmentation
- Land purchase to preserve floodplain functions

The City intends to implement the alternative compliance program in two phases:

- 1) Phase I: Applicant Implemented Alternative Compliance Projects where the applicant is fully responsible for the project's design, construction, operation, and long-term maintenance. Phase I is included in the Manual Update; however it will be utilized only if the ~~Water Quality Equivalency (WQE) study~~ Watershed Management Area Analysis (WMAA) is approved by the RWQCB executive officer. The required Water Quality Equivalency Study (WQE) has been prepared and approved by the RWQCB. Once the RWQCB approves the ~~WQE~~ WMAA, the City has the discretion to allow PDP projects to utilize Phase I. Implementing Phase 1-Alternative Compliance does not commit the City to implement Phase 2.
- 2) Phase II: Independent Alternative Compliance Projects which includes other options such as in lieu fee or a credit trading system. This phase is in the initial planning stage and is therefore not part of the project being analyzed in this mitigated negative declaration.

Implementation of Phase 1 of an Alternative Compliance Program depends on approval of the Watershed Management Area Analysis and Water Quality Equivalency documents. The RWQCB approved the WQE but has not approved the WMAA as of the date of the updated MND. If alternative compliance is not implemented by the effective date of the Manual Update, individual projects must be designed to meet onsite compliance as required by the Municipal Permit.

The Manual Update, Part 2, includes construction management requirements in accordance with the Municipal Permit. It provides guidance regarding required temporary storm water management controls during the construction phase of development projects.

There are no notable changes related to the construction management provisions in the Municipal Permit with the exception of deletion of the maximum grading limitation and the advanced treatment requirements. Part 2 provides detailed guidance on required BMPs during the construction phase, inspection and documentation requirements, and includes storm water pollution control plan templates.

9. Surrounding land uses and setting: Implementation of the Manual Update would occur within the six WMAs over which the City has jurisdiction, including San Dieguito River, Los Peñasquitos, Mission Bay, San Diego River, San Diego Bay, and Tijuana River. Surrounding uses and environmental setting would vary depending on the site of a specific development project subject to Manual Update.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.): Not applicable

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities/Service System |
| <input checked="" type="checkbox"/> Geology/Soils | <input type="checkbox"/> Noise | <input checked="" type="checkbox"/> Mandatory Findings Significance |

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial evaluation:

- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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I) AESTHETICS – Would the project:

- a) Have a substantial adverse effect on a scenic vista?

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A vista is a view from a particular location or composite views along a roadway or trail. Scenic vistas often refer to views of natural lands, but may also be compositions of natural and developed areas, or even entirely of developed and unnatural areas, such as a scenic vista of a rural town and surrounding agricultural lands. The items that can be seen within a vista are visual resources. Adverse impacts to individual visual resources or the addition of structures or developed areas may or may not adversely affect the vista. Determining the level of impact to a scenic vista requires analyzing the changes to the vista as a whole and also to individual visual resources.

The Manual Update is a guidance document that provides strategies and direction on how to implement post-construction BMPs required by the Municipal Permit that are identified in the City's Jurisdictional Runoff Management Plan (JRMP) and other City storm water planning documents. The Manual Update includes structural BMPs to meet the City's goal of improving water quality which would involve construction of physical structures or facilities; however, the features associated with structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) either would be below ground or would consist of low-profile visual elements that would not substantially obstruct scenic vistas. Therefore, the implementation of structural BMPs or off-site alternative compliance projects would not have an adverse effect on a scenic vista or visual resources.

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

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A "state scenic highway" refers to any interstate, state, or county road that has been officially designated by the California Department of Transportation (Caltrans) as scenic and thereby requires special scenic conservation treatment. Generally, the area defined within a state scenic highway is the land adjacent to and visible from the vehicular right-of-way. The scenic highway corridor extends to the visual limits of the landscape abutting the scenic highway.

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Construction of required structural BMPs for purposes of water quality

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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improvement, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) may be required within the vicinity of a state scenic highway. Such BMPs either would be below ground or would consist of low-profile visual elements. Therefore, the implementation of structural BMPs or off-site alternative compliance projects would not impact scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings, within a state scenic highway.

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

☐
☐
☒
☐

Visual character is the objective composition of the visible landscape within a viewshed, and is based on the organization of the pattern elements line, form, color, and texture. It is commonly discussed in terms of dominance, scale, diversity, and continuity. Visual quality is the viewer's perception of the visual environment and varies on the basis of the exposure, sensitivity, and expectation of the viewers.

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would be designed to be below ground or would consist of low-profile visual elements for purposes of improving water quality. Restoration and rehabilitation projects associated with alternative compliance would enhance the visual character of the surrounding area. Furthermore, many of the actions are expected to be located within or adjacent to existing disturbed or developed areas and thus would not degrade the visual character and quality within the City.

- d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

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The BMPs and/or alternative compliance projects would not involve the use of outdoor lighting or building materials with highly reflective properties such as highly reflective glass or high-gloss surface colors. Based on the requirements stated in the Manual all structural BMPs must be designed, constructed and maintained to drawdown surface ponding within 96 hours to prevent mosquito breeding in accordance with the Municipal Permit Fact Sheet (Attachment F) and Department of Environmental Health requirements. Furthermore, bioretention and biofiltration BMPs are required to drawdown surface ponding within 24 hours. As a result, surface ponding from structural BMPs would not create a new source of substantial light or glare. Therefore, the project would not create any new sources of light

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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pollution that could contribute to skyglow, light trespass, or glare and adversely affect day or nighttime views in the area.

II) AGRICULTURAL AND FOREST

RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. – Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Program of the California
Resources Agency, to non-
agricultural use?

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would not preclude the use of land for future agricultural use and would not result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use.

- b) Conflict with existing zoning for
agricultural use, or a Williamson
Act Contract?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site projects options implemented under an alternative compliance project would not preclude the use of land for future agricultural use and would not result in a conflict with existing zoning for agricultural use or a Williamson Act Contract.

- c) Conflict with existing zoning for,
or cause rezoning of, forest land
(as defined in Public Resources
Code section 1220(g)),
timberland (as defined by Public
Resources Code section 4526), or
timberland zoned Timberland
Production (as defined by
Government Code section
51104(g))?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would not result in rezoning of forest lands, timberlands, or timberland zoned timberland production.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- d) Result in the loss of forest land or conversion of forest land to non-forest use?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would not result in the loss of forest land to non-forest land use.

- e) Involve other changes in the existing environment, which, because of their location or nature, could result in conversion of farmland to non-agricultural use or of forest land to non-forest use?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would not involve other changes in the existing environment that would result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest land use.

III) AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations – Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?

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Actions associated with the Manual Update are intended to reduce storm water pollution and improve water quality in compliance with the Municipal Permit. Future projects implemented in accordance with the project would be required to comply with standard

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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construction practices such as stockpile protection and daily sweeping of work areas to reduce dust or debris from leaving the site, ensuring that air quality standards are not violated. Therefore, the project would not conflict with or obstruct the implementation of the applicable air quality plan.

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

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As indicated in III.a, grading equipment and procedures would comply with Air Pollution Control District (APCD) regulations, and would not violate any air quality standard or contribute substantially to an existing or projected air quality violation due to standard construction practices, such as regular maintenance of air filters on construction equipment and shut down of engines if idling is anticipated to be more than five minutes. The Manual Update includes both structural BMPs to meet the City's goal of improving water quality.

Construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project could result in short-term impacts from the temporary addition of pollutants to the local airshed caused by soil disturbance, dust emissions, and combustion pollutants from onsite construction equipment, and from off-site trucks hauling construction materials to the site. However, emissions would be minimal, temporary, and localized. Dust control measures would be in place to minimize any impacts, including, but not limited to, street sweeping, application of soil stabilizers, high-wind dust control plan, and watering of exposed stock pile areas. In addition, standard construction practices would be implemented such as performing regular maintenance of air filters on construction equipment and following idling engine shutdown requirements. The operation of such structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would be generally passive, and not require mechanical equipment which would generate air emissions. Therefore, the Manual Update would not violate any air quality standards.

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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thresholds for ozone precursors)?

The Manual Update includes structural BMPs to meet the City's goal of improving water quality.

Construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project could result in short-term impacts from the temporary addition of pollutants to the local airshed caused by soil disturbance, dust emissions, and combustion pollutants from onsite construction equipment, and from offsite trucks hauling construction materials. As indicated in III.b, emissions would be minimal, temporary, and localized. Furthermore, standard practices would be implemented to reduce air emissions. Therefore, the Manual Update would not result in a cumulatively considerable net increase of any criteria pollutant.

- d) Create objectionable odors affecting a substantial number of people? ☐ ☐ ☐ ☒

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Odors could be generated from vehicles and/or equipment exhaust emissions during construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project. However, such odors would be temporary and localized. The operation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would not result in any objectionable odors.

IV) BIOLOGICAL RESOURCES –

Would the project:

- a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and ☐ ☒ ☐ ☐

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Wildlife Service?

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could result in impacts to sensitive species should they be proposed within or adjacent to habitat supporting sensitive animal species. As further described in Section IX.a. – Hydrology/Water Quality, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. As noted above, construction of any required BMP's could result in a secondary physical effect on biological resources, despite the fundamental intent of the BMP's to improve water quality. As such, the Storm Water Standards Form I-3B: Site Information Checklist for PDPs (Part I, Appendix A: Submittal Templates) has been modified to include information regarding proximity of permanent, post-construction storm water BMP's to the City's MHPA and other environmentally sensitive lands. Coordination with the project biologist during design of project-level BMP's and implementation of the land use and biological mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND is anticipated to reduce this program-level impact of the structural BMPs and alternative compliance actions for future projects to below a level of significance.

- b) Have a substantial adverse effect on any riparian habitat or other community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. However, these actions could indirectly impact wetlands by reducing existing levels of dry weather flow that occurs throughout the City from over irrigation and other sources. The diversion or reduction in unnatural flows (i.e., irrigation runoff) would be a beneficial impact on water quality, but may result in a less than significant impact to riparian habitat or other community identified in local or regional plans, policies, and regulations or by the CDFW or USFWS and/or federally protected wetlands as defined by Section 404 of the Clean Water Act. A less than significant impact would only occur to riparian areas that rely on unnatural flows as their primary source of water.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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As further described in Section IX.a. – Hydrology/Water Quality and IV.a., the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. As noted above, construction of any required BMP's could result in a secondary physical effect on biological resources, despite the fundamental intent of the BMP's to improve water quality. Coordination with the project biologist during design of project-level BMP's including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project would be required. These would generally consist of improvements to areas of existing City streets, municipal facilities, parks, parking lots, and/or storm drain systems areas for the purposes of water quality improvement. However, habitat located within or adjacent to proposed structural measures may occur in areas supporting riparian or other habitats identified in local or regional plans, policies, and regulations or by the CDFW or USFWS and/or federally protected wetlands as defined by Section 404 of the Clean Water Act. Impacts to these habitats would be potentially significant. Implementation of the biological mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes the requirement for site-specific biological resources surveys and analysis is anticipated to reduce this program-level impact of the structural BMPs and alternative compliance actions for future projects to below a level of significance.

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

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As discussed in response IV(a-b), structural BMPs and alternative compliance actions could impact wetlands. As such, subsequent environmental review will be required for future projects that cannot demonstrate avoidance of impacts on wetlands in accordance with CEQA and the Mitigation Framework included in this MND. It should be noted that the 2013 MS4 Permit requires that Priority Development Projects retain the pollutants in the runoff from the 85th percentile storm event. If retention is not feasible, biofiltration BMPs are required. The fundamental principle of Low Impact Design is to mimic natural hydrology, therefore if natural condition of the site does not infiltrate run-off, the

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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proposed BMPs will not be retention BMPs. The soil conditions in San Diego are generally not conducive to retention. As a result, most projects will be required to implement biofiltration BMPs, which treat the storm water runoff before conveyance to the receiving water. Because biofiltration systems are lined, they have an underdrain that conveys treated storm water runoff to the City's conveyance system and eventually receiving waters. The type of BMP and its potential effect on biological resources will be addressed during the subsequent review process as noted above.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

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As discussed in response IV(a-c), implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not be expected to result in significant obstacles to wildlife movement. In most cases, the BMPs would be constructed outside of drainage courses that typically function as wildlife corridors. Alternative compliance actions occurring within drainage courses would generally enhance the drainages and promote wildlife movement by improving the vegetative cover. Thus, structural BMPs and alternative compliance actions would not significantly impact wildlife movement. Implementation of the Land Use mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the ESL Regulations and MSCP/MHPA Land Use Adjacency Guidelines would ensure that potential program-level impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

- e) Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?

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The City's Multiple Species Conservation Program (MSCP) Subarea Plan was designed to address habitat conservation efforts within the City's boundaries. In association with management of MHPA lands, the Subarea Plan contains guidelines for minimizing impacts of urban development on upland and wetland ecosystems and water quality. The Manual Update

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helps carry out the goals of the City's MSCP by providing guidance to reduce urban runoff and improve water quality within the City.

Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement and would be designed to ensure conformance with the City's MSCP Subarea Plan. The MHPA Land Use Adjacency Guidelines would be incorporated into projects as applicable to reduce any potential indirect impacts on the MHPA. As such, implementation of the Land Use mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the ESL Regulations and MSCP/MHPA Land Use Adjacency Guidelines would ensure that potential program-level impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

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As indicated in IV(e), actions taken in accordance with the Manual Update would not significantly impact habitat conservation plans, most notably the City's MSCP Subarea Plan.

V) CULTURAL RESOURCES –

Would the project:

- a) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?

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The purpose and intent of the Historical Resources Regulations of the Land Development Code (Chapter 14, Division 3, Article 2) is to protect, preserve and, where damaged, restore the historical resources of San Diego. The regulations apply to all proposed development within the City when historical resources are present on the premises. CEQA requires that before approving discretionary projects, the Lead Agency must identify and examine the significant adverse environmental effects which may result from that project. A project that may cause a substantial adverse change in the significance of a historical resource is a

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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project that may have a significant effect on the environment (Sections 15064.5(b) and 21084). A substantial adverse change is defined as demolition, destruction, relocation, or alteration activities, which would impair historical significance (Sections 15064.5(b)(1) and 5020.1). Any historical resource listed in or eligible to be listed in the California Register of Historical Resources, including paleontological resources, is considered to be historically or culturally significant. The California Register of Historical Resources regulations apply to all proposed development within the City when historical resources are present on the premises.

As further described in Section IX.a. – Hydrology/Water Quality, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. As noted above, construction of any required BMP's could result in a secondary physical effect on historical, archaeological, or tribal cultural resources, despite the fundamental intent of the BMP's to improve water quality. Coordination with the project archaeologist during design of project-level BMP's, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would be required. As no specific locations are known for the BMPs required to comply with the Manual Update, the potential for impact cannot be determined at this time. Implementation of the Land Use and Historical Resources mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the Historical Resources Regulations and Historical Resources Guidelines would ensure that potential program-level historical (built-environment) impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

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As with historical resources discussed in V(a), implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could impact archaeological resources. As no specific locations are known for the BMPs required to comply with the Manual Update, the potential for impact cannot be determined at this time. Implementation of the Land Use and Historical Resources mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the Historical Resources Regulations and Historical Resources Guidelines would ensure that

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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potential program-level archaeological resources impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

- c) Directly or indirectly destroy a
unique paleontological resource ☐ ☒ ☐ ☐
or site or unique geologic feature?

As further described in Section IX.a. – Hydrology/Water Quality, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP’s such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. As noted above, construction of any required BMP’s could result in a secondary physical effect on paleontological resources, despite the fundamental intent of the BMP’s to improve water quality. Because important fossil bearing formations assigned “high” and “moderate” resource sensitivities as further described in the City’s Significance Thresholds and Paleontology Guidelines (2002) may be located within a project site, review of applicable soils or geotechnical reports information would be required during design of project-level BMP’s, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would be required. Implementation of the Paleontological Resources mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the Paleontological Resources Guidelines would ensure that potential program-level impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

- d) Disturb any human remains,
including those interred outside of ☐ ☒ ☐ ☐
formal cemeteries?

See V(a-c). The Manual Update includes structural BMPs to meet the City’s goal of improving water quality. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) may be located in areas of where human remains may occur. Thus, significant impacts to human remains could occur. Implementation of the Historical Resources mitigation framework included in the Mitigation Monitoring and Reporting Program (MMRP) contained in Section V of the MND which includes compliance with the Historical Resources Regulations and Historical Resources Guidelines, including the provisions of the California Public Resources Code and the Health and Safety Code would ensure that

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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potential program-level impacts of the structural BMPs and alternative compliance actions for future projects would be reduced to below a level of significance.

VI) GEOLOGY AND SOILS – Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would be for the purposes of water quality improvement. No buildings or structures that could house people would be constructed as part of this project. Therefore, implementation of structural BMPs including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not expose people or structures to potential substantial adverse effects from rupture of a known fault line, strong seismic ground shaking, or seismic-related ground failure or landslides.

- ii. Strong seismic ground shaking?

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As indicated in response VI(a)(i), implementation of BMPs and/or alternative compliance actions would not expose people to seismic shaking. Thus, no seismic impact would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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| iii. Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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As indicated in response VI(a)(i), implementation of BMPs and/or alternative compliance actions would not expose people to seismic-related events. Thus, no seismic impact would occur.

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| iv. Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Implementation of structural BMPs or alternative compliance actions would not expose people to a landslide risk. Thus, no impact would occur.

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| b) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
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*The Manual Update includes structural BMPs to meet the City's goal of improving water quality. As required by Municipal Permit Section E.3.c.(2), the Manual Update requires Priority Development Projects to avoid critical sediment yield areas or implement measures that would allow coarse sediment to be discharged to receiving waters, such that the natural sediment supply is unaffected by the project. The Manual Update does not result in the "loss of topsoil" and would prevent erosive conditions to receiving streams as avoidance of coarse sediment areas allows for **natural** discharge of coarse sediment.*

Construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could require ground-disturbing activities that could result in temporary loss of topsoil or soil erosion at the construction site. Dust control measures would be in place to minimize any loss of topsoil, including, but not limited to, application of soil stabilizers, high-wind dust control plan, and watering of exposed stock pile and other disturbed areas. In addition, standard construction BMPs would be in place to minimize onsite soil erosion during construction, including, but not limited to, silt fencing, sand bag berms, and fiber rolls. Because of the nature of their purpose to improve water quality, structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not result in the loss of topsoil or soil erosion during their operation.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? ☐ ☒ ☐ ☐

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could affect geologic units and/or soil. In particular, projects involving the infiltration of runoff into the ground through pervious/porous material have the potential to damage streets, sidewalks, and building improvements. Appendix C of the Manual Update provides methods for geotechnical and groundwater assessment applicable for screening at the planning level and design-level requirements and includes a technical feasibility form for retention BMPs. The technical feasibility considers site specific conditions related to soil type, geologic conditions, slope stability and existing facilities. Geotechnical evaluations of all potential project sites would be required in order to determine feasibility of the sites for infiltration. Infiltration would not be implemented on sites that are not feasible for infiltration. Such an evaluation would be necessary because the goal of infiltration projects is to reduce urban runoff flows as much as feasible by allowing flows to soak into the ground in a manner engineered as to not compromise the integrity of nearby structures. Implementation of the Mitigation Framework which requires a geotechnical evaluation for future infiltration project sites would reduce potential impacts to below a level of significance.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? ☐ ☐ ☒ ☐

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Expansive soils may be identified at the proposed project sites. However, no buildings or habitable structures would be constructed as a part of this project and therefore no substantial risk to life or property would be created.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would not require construction of septic tanks or alternative wastewater systems.

VII) GREENHOUSE GAS EMISSIONS – Would the project:

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| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Construction could result in minor amounts of greenhouse gas emissions; however, these emissions would be minimal and temporary in nature. No GHG emissions would generally be associated with operation of the BMPs or alternative compliance actions due to their passive nature. Thus, the Manual Update would not result in significant GHG emissions that could harm the environment.

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| b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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The Manual Update does not deviate from other City planning and land use documents adopted for reducing greenhouse gas emissions. The City of San Diego's Climate Action Plan (CAP) identifies strategies and goals to reduce greenhouse gas emissions to achieve 2020 and 2035 targets. Several goals include to increase the use of mass transit, commuter walking opportunities, and commuter bicycling opportunities. The Manual Update does not conflict with the CAP as development projects that promote transit and active transportation may be exempt from PDP requirements. Part I, Appendix J of the Manual Update provides guidance criteria for new or retrofit paved sidewalks, bicycle lanes, and trails, and retrofit or redeveloped paved alleys, streets and roads that may be exempt from PDP requirements. The Manual Update encourages careful planning to integrate Low Impact Design features into project components; this is consistent with the

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Conservation Element of the City's General Plan in regards to improve and maintain urban runoff water quality.

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Construction of these structural components could generate greenhouse gas emissions; however, these emissions would be minimal and temporary in nature. Construction plans and mitigation measures would be made in compliance with all current policies and regulations. No GHG emissions would generally be associated with operation of the BMPs or alternative compliance actions due to their passive nature. Therefore, the Manual Update would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases to levels less than significant.

VIII) HAZARDS AND HAZARDOUS MATERIALS – Would the project:

- a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials? ☐ ☐ ☒ ☒

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) are intended to reduce storm water pollution and are not designed to produce, handle, transport, or release hazardous materials and therefore would not create a significant hazard to the public.

Some structural BMPs use bioretention soil media (BSM) to trap hazardous materials, such as bacteria and metals that are generated from land uses and transported downstream via storm water runoff. These BMPs must be maintained by replacing the BSM, which must be transported and disposed of. Individual project applicants must submit a Storm Water Quality Management Plan (SWQMP) and identify the operation and maintenance requirements of the selected structural BMPs and the maintenance mechanisms for long term operation and maintenance of structural BMPs. Project applicants must submit a SWQMP using the template form in Part 1, Appendix A of the Manual Update. Attachment 3a of the SWQMP template states that the applicant must identify, "When applicable, necessary special training or certification requirements for inspection and maintenance personnel such as confined space entry or hazardous waste

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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management.” Attachment 3a of the Manual will also be revised to include a line item with check box stating that “If applicable, indicate required maintenance and replacement frequency of bioretention soil media. Replacement of bioretention soil media is subject to state and federal laws.” Chapter 7 of the Manual has been updated to include a requirement stating that removal and transport of BMPs soil media are subject to compliance with applicable local, state and federal laws which includes the possible transport of such materials associated with the operation and maintenance of the BMPs.

- i. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
- ☐ ☐ ☒ ☒

As indicated in response VIII(a), actions required to conform with the Manual Update would not create significant hazards to the public or environment related to a release of hazardous materials.

- ii. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- ☐ ☐ ☐ ☒

As indicated in response VIII(a), actions required to conform with the Manual Update would not create significant hazards to nearby schools related to a release of hazardous materials.

- iii. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
- ☐ ☐ ☒ ☐

The Manual Update includes structural BMPs to meet the City’s goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Known hazardous materials sites may be located near or

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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adjacent to the locations of the proposed structural BMPs. Regulatory oversight for the handling, treatment or remediation is handled by the County of San Diego, Hazardous Materials Management Division (HMMD), which is closely regulated by the State of California. Project sites which are identified on the State Cortes list would be required to consult with County HMMD and submitted documentation to the City demonstrating compliance with County requirements. Furthermore, structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) are intended to improve water quality and prevent polluted storm water from entering the City's MS4. Compliance with all applicable local, state and federal requirements associated with hazardous materials sites would preclude the potential for affecting water quality and therefore, the project would not result in a significant hazard to the public and the impact would be less than significant.

- iv. For a project located within an airport land use plan or where such a plan has not been adopted, within two mile of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement, including the two airports, Montgomery Field and Brown Field, operated by the City. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) at or within the airport land use plan of the City's two operated airports are intended to reduce storm water pollution and would not result in a safety hazard for people residing or working in the project area. Furthermore, as discussed in response I(a), the features associated with structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) either would be below ground or would consist of low-profile features that would not pose a hazard to nearby airports.

- b) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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project area?

As discussed in response I(a), the features associated with structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) either would be below ground or would consist of low-profile features that would not pose a hazard to nearby airports.

- c) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality by reducing storm water pollution. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not impair the implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

- d) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

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The Manual Update includes structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) to meet the City's goal of improving water quality by reducing storm water pollution. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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IX) HYDROLOGY AND WATER QUALITY – Would the project:

- a) Violate any water quality standards or waste discharge requirements? ☐ ☐ ☒ ☒

The Manual Update is specifically intended to improve water quality region-wide and limit certain waste discharges from new development and redevelopment projects from entering the MS4.

The Manual Update addresses sediment management from a hydromodification perspective and requires that development projects either avoid critical sediment yield areas (bed material) or implement measures that allow critical coarse sediment to be discharged to receiving waters, such that the stability of the receiving waters is not impacted. These coarse bed sediments are key in maintaining channel geometry and preventing channel and bank scour that in turn could lead to increased fine sediment mobilization.

Development or redevelopment of a site required to comply with the Manual Update could also correct existing drainage/flooding problems that currently exist. This would be further evaluated on a project-by-project basis to ensure that water quality standards or waste discharge requirements have not been violated. Furthermore, implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would reduce water quality impacts of new development and redevelopment. The City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed which could result in a secondary physical effect on the environment, but are fundamentally intended to improve water quality. In addition, the Manual Update includes requirements applicable to construction activities to reduce potential water quality impacts to below a level of significance; therefore, the project would not create an impact to water quality or waste discharge requirements, but instead meets the requirements of the Municipal Permit and would have a beneficial effect relative to water quality.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The Manual Update includes structural BMPs to meet the City's goal of improving water quality, as well as the protection of groundwater resources. Required structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could be designed to treat runoff through filtration and infiltration before storm water leaves the site to recharge groundwater supplies and improve water quality. As noted above in IX.a, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed which could result in a secondary physical effect on the environment, but are fundamentally intended to improve water quality. The Municipal Permit also includes performance requirements to maintain structural BMPs to ensure infiltration and groundwater protection. During the construction of structural BMPs, standard construction BMPs and practices would be required to avoid temporary impacts to resources and not adversely deplete groundwater supplies. Therefore, the Manual Update would not create an impact to groundwater.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on site or off site?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. As noted above in IX.a, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. Construction could result in a secondary physical effect on the environment; however, the

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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BMP's are fundamentally intended to improve water quality. The structural BMPs required by the Manual Update are intended to mimic the natural hydrology of the watershed to minimize adverse impacts on drainage patterns. Additionally, projects subject to hydromodification management design are required to implement structural BMPs to control the runoff volume and velocity leaving a site to minimize the potential of erosion to downstream water bodies. The Manual Update incorporates the 2011 San Diego County Hydromodification Management Plan criteria adopted by the San Diego Water Board. The 2011 San Diego County Hydromodification Management Plan establishes the flow range from a fraction of Q2 to Q10 which represents the range of geomorphically significant flows. Chapter 6 of the Manual Update provides guidance on hydromodification management.

Additionally, certain structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) may be designed to treat runoff through filtration and infiltration before storm water leaves the designed site to reduce the release of pollutants, including those from erosion or siltation. Development or redevelopment of a site could also improve existing erosion and siltation problems that currently exist. This would be assured through implementation of the requirements described in the Manual Update in consultation with City staff during subsequent project review. During this process, project proponents would be required to demonstrate that any alteration of existing drainage patterns would be for the purpose of improving water quality in order to reduce and/or prevent substantial erosion or siltation. Standard construction storm water BMPs would be implemented during construction of such structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements), to reduce temporary impacts that may result in erosion or siltation on site or off site. Therefore, the project would not create a significant impact to drainage patterns that would result in erosion or siltation on site or off site.

- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) designed to treat runoff through filtration and

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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infiltration before storm water leaves the designed site would reduce flooding by reducing the amount of runoff leaving the site. As such, development or redevelopment of a site that is required to comply with the Manual Update may also correct existing drainage/flooding problems that currently exist. As noted above in IX.a, the City is required to implement the Manual Update to ensure compliance with the Municipal Permit. In order to accomplish this goal, structural BMP's such as infiltration BMPs, partial infiltration BMPs, no infiltration BMPs must be designed and constructed in accordance with the requirements of the Manual Update. Construction could result in a secondary physical effect on the environment; however, the BMP's are fundamentally intended to improve water quality. Standard construction storm water BMPs would be implemented during construction of such structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements), to reduce any temporary impact that may result in flooding on site or off site. Therefore, the project would not create an impact to drainage patterns that would result in flooding on site or off site.

- e) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff? ☐ ☐ ☐ ☒

See IX.a. & c. The Manual Update is specifically intended to reduce polluted runoff from new development and redevelopment projects. The Manual Update includes requirements that would reduce the amount of runoff leaving a site and reduce the amount of pollution in the runoff leaving the site. As such, implementation of the Manual Update would not create an impact to existing drainage systems and would reduce pollutant runoff to improve water quality.

- f) Otherwise substantially degrade water quality? ☐ ☐ ☒ ☒

As discussed in response IX.a -e, implementation of the Manual Update would reduce urban runoff pollution from new development and redevelopment projects within its jurisdiction. Therefore, actions associated with its implementation would not degrade water quality but rather would improve it and would result in a beneficial effect on the environment.

- g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or ☐ ☐ ☐ ☒

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other flood hazard delineation map?

The Manual Update is proposed to ensure the City's compliance with Municipal Permit and to improve water quality. The project does not propose the placement of housing within the 100-year flood hazard area. Thus, no impact would occur.

- h) Place within a 100-year flood hazard area, structures that would impede or redirect flood flows?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) could be proposed in a 100-year flood hazard area that may impede or redirect flood flows, but for the specific purpose of improving drainage patterns to treat runoff through filtration and infiltration before storm water leaves the site. Any structural BMP, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would be engineered to prevent substantial flooding on site or off site downstream. Chapter 3 of the Manual Update includes steps and procedures for preparing a comprehensive storm water management design. Detailed requirements for source control and site design BMP's are described in Chapter 4, including specific information regarding project compliance applicability. Strict compliance with the requirements in this chapter of the Manual Update would ensure that structural BMP's designed for new development or redevelopment projects would not impede or redirect flood flows within a 100-year flood hazard area and the potential impact would be less than significant. Furthermore, standard practices for construction BMPs that are temporarily placed on-site require the removal of any BMP (e.g. check dams, fiber rolls, etc.) or structure that impedes storm water flows prior to a rain event.

X) LAND USE AND PLANNING –

Would the project:

- a) Physically divide an established community?

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The Manual Update would ensure the City's compliance with the the Municipal Permit to improve water quality. It would not physically divide an established community.

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The Manual Update would ensure the City's compliance with the Municipal Permit issued by the San Diego Regional Water Quality Control Board (SDRWQCB) as well as the City's Storm Water Ordinance. Furthermore, the project is consistent with the City's "Urban Runoff Management" section contained in the Conservation Element of the General Plan, as well as the "Storm Water Infrastructure" section within the Public Facilities Element of the General Plan, which outlines water quality and watershed protection principles. Future projects which would result in impacts to biological resources would be required to comply with the Environmentally Sensitive Lands (ESL) Regulations of the City's Municipal Code and the Mitigation Framework included in this MND. The implementation of the Manual Update does not require an LCP amendment, as it is not a land use plan, a zoning ordinance, or other implementing action. It is not a broad "policy" or "program", but a technical manual. Thus, the Manual Update would not conflict with applicable land use plans.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

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The Multiple Species Conservation Program (MSCP) is a conservation program designed to facilitate the implementation of a regional habitat preserve while allowing "take" of endangered species or habitats at the individual project level (City of San Diego 1997). This habitat preserve is known as the Multi-Habitat Planning Area (MHPA) and lands within it have been designated for conservation. The MHPA was designed to conserve biological resources considered sensitive by the resource agencies and by the City of San Diego.

The MSCP Subarea Plan was designed to address habitat conservation efforts within the City's boundaries. In association with management of MHPA lands, the City MSCP Subarea Plan contains guidelines for minimizing impacts of urban development on upland and wetland ecosystems and water quality. The Manual Update helps carry out the goals of the City's MSCP by providing guidance to reduce urban runoff and improve water quality within the City. Any structural components that would be implemented would be designed in conformance with the City's MSCP Subarea Program including the Land Use Adjacency guidelines.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Implementation of measures contained in the Manual Update could occur within or adjacent to the City of San Diego MSCP/MHPA. Therefore, in order to be consistent with current adopted MSCP Subarea Plan policies and Management Directives, future projects would be designed to incorporate the applicable MSCP Land Use Adjacency Guidelines and include provisions for barrier fencing and plantings for access control; lighting restrictions; drainage and toxins as indicated below, and would not conflict with habitat function, configuration, or long-term viability; usage of the MHPA by sensitive species including narrow endemics; established management directives for the subarea plan; or cause potentially adverse edge effects. Direct access to public open space would be prohibited during any future construction related activity in order to minimize impacts to sensitive lands and to promote the objectives of the MSCP Subarea Plan. Consistency with the provisions outlined in the Biology Guidelines and the Land Use (MSCP/MHPA) Mitigation Framework incorporated into Section V. of the MMRP would reduce any potential indirect impacts to below a level of significance.

XI) MINERAL RESOURCES –

Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

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The Manual Update would ensure compliance with the Municipal Permit. It would not result in the loss of availability of a known mineral resource that would be of value to the region or the residents of the state.

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

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The Manual Update would ensure compliance with the Municipal Permit. It would not result in the loss of availability of a known mineral resource that would be of value to the region or the residents of the state.

XII) NOISE – Would the project:

- a) Generate noise levels in excess of standards established in the local

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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general plan or noise ordinance,
or applicable standards of other
agencies?

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Construction of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) may result in temporary noise impacts in the vicinity of the project site. Loud construction noise is permitted from 7 a.m. to 7 p.m., Monday through Saturday, but not on Sundays or legal holidays. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not generate operational noise.

- b) Generate excessive ground-borne
vibration or ground-borne noise
levels?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Construction activities would not result in the generation of excessive ground-borne vibration or ground-borne noise levels. No operational noise would occur.

- c) Result in a substantial permanent
increase in ambient noise levels in
the project vicinity above levels
existing without the project?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. They would not generate operational noise and therefore, would not result in a permanent increase in ambient noise levels.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing without the project?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement. Construction could result in temporary increase in ambient noise levels in the vicinity of the project. Loud construction noise is permitted from 7 a.m. to 7 p.m., Monday through Saturday, but not on Sundays or legal holidays.

- e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the area to excessive noise levels?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) may occur in areas for the purposes of water quality improvement, including the two airports operated by the City, Montgomery Field and Brown Field. Implementation of structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) at or within the airport land use plan of the City's two operated airports would not expose people residing or working in the area to excessive noise levels.

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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See response XII(e).

XIII) POPULATION AND HOUSING –

Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

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The Manual Update would ensure the City's compliance with Municipal Permit and would not encourage population growth in the area through the construction of new homes or the extension of roads or other infrastructure.

- b) Displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere?

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The Manual Update would ensure the City's compliance with Municipal Permit. It would not physically divide an established community and would not displace existing homes or people and therefore, would not necessitate the construction of replacement housing elsewhere.

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

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As discussed in response XIII(b), implementation of actions required by the Manual Update would not displace people.

XIV) PUBLIC SERVICES

- a) Would the project result in

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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substantial adverse physical impacts associated with the provisions of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

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|--------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| i. Fire Protection | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the need for new or altered fire protection facilities.

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| ii. Police Protection | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the need for new or altered police protection facilities.

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| iii. Schools | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the need for new or altered school facilities.

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| iv. Parks | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the need for new or park altered facilities.

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| v. Other public facilities | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the need for any other new or altered public facility.

XV) RECREATION – Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the increased use of existing neighborhood parks or other recreational facilities or require the construction or expansion of recreation facilities. Structural BMPs that may be constructed at City Parks are for the sole purpose of reducing polluted runoff and improving water quality.

- b) Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

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The Manual Update would ensure the City's compliance with Municipal Permit and would not result in the increased use of existing neighborhood parks or other recreational facilities or require the construction or expansion of recreation facilities. Structural BMPs that may be constructed at City Parks are for the sole purpose of reducing polluted runoff and improving water quality.

XVI) TRANSPORTATION/TRAFFIC – Would the project:

- a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel, and relevant components of the circulation system, including,

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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but not limited to, intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit?

The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement and would not generate traffic and therefore, would not result in long-term traffic increases. Construction of structural BMPs could generate short-term traffic in the vicinity of any given project site; future public and/or private development or redevelopment projects which involve work in the public right-of-way would be required to comply with the requirements described in the Standard Specifications for Public Works Construction, and California Department of Transportation's Manual of Traffic Controls for Construction and Maintenance Work Zones. A traffic control plan would be prepared and implemented in accordance with the City of San Diego Standard Drawings Manual of Traffic Control for Construction and Maintenance Work Zones. Thus, the Manual Update would not conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the City's circulation system. Section 4.10 of the 2050 Regional Transportation Plan references the Model SUSMP and states that "Each transportation network improvements and land use changes associated with regional growth within the 2050 RTP/SCS would require coordination with appropriate municipal staff to determine if any project or watershed conditions would affect selection and design of BMPs..."

- b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

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See XVI.a. The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement and would not generate traffic and therefore,

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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would not result in long-term traffic increases that would result in changes to the level of service on existing City roadways. Construction of structural BMPs could generate short-term traffic in the vicinity of any given project site; future public and/or private development or redevelopment projects which involve work in the public right-of-way would be required to comply with the requirements described in the Standard Specifications for Public Works Construction, and California Department of Transportation's Manual of Traffic Controls for Construction and Maintenance Work Zones. A traffic control plan would be prepared and implemented in accordance with the City of San Diego Standard Drawings Manual of Traffic Control for Construction and Maintenance Work Zones to coordinate construction flows to minimize impacts to local roadways. Thus, the Manual Update would not conflict with an applicable congestion management program

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would not result changes to air traffic patterns.

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) would occur in areas for the purposes of water quality improvement and would not result the construction of roadway design features or result in the changes in uses of the City's roadways. Structural BMPs could be constructed within or adjacent to a City roadway and would be done so for purposes of treating runoff to reduce pollutant discharges to the City's MS4. These structural BMPs would not act as a hazard to City motorists or result in incompatible uses.

- e) Result in inadequate emergency access?

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The Manual Update includes structural BMPs to meet the City's goal of improving water quality. Implementation of structural BMPs would be improvements to areas of existing City streets, municipal facilities, parks, parking lots, and/or storm drain systems areas for the purposes of water quality improvement. Structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements), would not be located and/or constructed in such a way that would prevent emergency access to any site.

- f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

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The Manual Update would ensure the City's compliance with Municipal Permit and would not conflict with policies, plans, or programs supporting alternative means of transportation.

XVII) UTILITIES AND SERVICE SYSTEMS – Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

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The Manual Update would ensure the City's compliance with Municipal Permit and to improve water quality and reduce urban runoff pollution within its jurisdiction. It does not involve any use that would discharge wastewater to a sanitary sewer or off-site wastewater systems. Therefore, it would not exceed any wastewater treatment requirements.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The Manual Update would ensure the City's compliance with Municipal Permit and to improve water quality and reduce urban runoff pollution within its jurisdiction. It does not involve any use that would discharge wastewater to a sanitary sewer or off-site wastewater systems. Therefore, it would not exceed any wastewater treatment requirements.

- c) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

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The Manual Update is intended to assist in the City's efforts to improve water quality and reduce urban runoff pollution within its jurisdiction. The City operates wastewater treatment plants and pump stations, potable water pump stations, water treatment plants, potable water reservoirs, potable water clear wells, raw water reservoirs, and groundwater basins. Chapters 4 and 5 of the Manual Update provide guidance on how to implement pollution prevention methods and minimum BMPs to be implemented (identified in other City storm water management planning documents such as the JRMP) at such City-owned facilities and during required maintenance activities. The Manual Update would not require or result in the construction of a new water or wastewater treatment facility.

- d) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

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~~*Implementation of the Manual Update will result in on-site BMPs and alternative compliance actions including new storm water facilities and possibly regional detention basins. However, these facilities would be designed to minimize significant environmental effects by implementing the mitigation framework identified in this MND in order to assure that no significant impacts from structural water quality control features would occur.*~~

Construction of future projects implemented in accordance with the requirements of the Manual Update, which include both on-site and off-site BMPs, was used as the threshold or baseline for determining the potential for significant direct or indirect effects on the environment. For a project to result in the construction of new storm water drainage facilities or expansion of existing facilities, such as catch basins, curb inlets, or storm drain

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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pipes, the project would need to overburden current storm water drainage facilities, thereby requiring new or expanded facilities. Structural BMPs are another type of storm water drainage facility that reduces the pollutant content of storm water discharges. In this case, the Manual Update merely indicates appropriate BMPs for site development, which generally will result in less storm water discharge to the City's MS4 system. To the extent that new storm water facilities are constructed, such facilities would not cause a significant environmental effect.

- e) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

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The Manual Update is intended to assist in the City's efforts to improve water quality and reduce urban runoff pollution within its jurisdiction and does not require water services from a water district.

- f) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

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The Manual Update is intended to assist in the City's efforts to improve water quality and reduce urban runoff pollution within its jurisdiction and would not produce any wastewater that increase a provider's service capacity.

- g) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

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The Manual Update is intended to assist in the City's efforts to improve water quality and reduce urban runoff pollution within its jurisdiction and would not generate any solid waste.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- h) Comply with federal, state, and local statutes and regulation related to solid waste?

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The Manual Update is intended to assist in the City's efforts to improve water quality and reduce urban runoff pollution within its jurisdiction and would comply with federal, state, and local statutes and regulations related to solid waste.

XVIII) MANDATORY FINDINGS OF SIGNIFICANCE – Does the project:

- a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

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Future projects implemented in accordance with the Manual Update would include improvements to existing streets, developed parks, parking lots, municipal facilities, and/or storm drain systems outside of biologically sensitive areas. The project does however have the potential to result in impacts to sensitive habitat and species should the actions be located within or adjacent to biological resources. Similarly, improvements located in areas supporting historical resources could also result in significant environmental impacts to those resources. Mitigation Framework measures have been incorporated into the MMRP which are expected to reduce impacts to land use (MSCP/MHPA), biological, historical and paleontological resources to below a level of significance.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- b) Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable futures projects)?

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Implementation of future structural BMPs, including those in conjunction with an alternative compliance project, or other off-site mitigation options implemented under an alternative compliance project (that result in physical improvements) have the potential to result in impacts to land use (MSCP/MHPA), biological, historical and/or paleontological resources. However, implementation of the mitigation measures identified in the MMRP would reduce these impacts and avoid a significant contribution to cumulative impacts associated with other projects within the City. Furthermore, other jurisdictions are implementing similar structural components within the WMAs in their jurisdictions and will implement mitigation measures if they are required. Therefore, impacts associated with this project, combined with other closely related past, present, and reasonably foreseeable future projects would not result in a cumulatively considerable incremental effect on land use (MSCP/MHPA), biological, historical or paleontological resources.

- c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

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The Manual Update is intended to assist in the City’s efforts to improve water quality and reduce urban runoff pollution within its jurisdiction and would not directly or indirectly cause adverse effects on human beings.

INITIAL STUDY CHECKLIST

REFERENCES

I. Aesthetics / Neighborhood Character

- ☒ City of San Diego General Plan.
- ☐ Community Plans:
- ☐ Local Coastal Plan.

II. Agricultural Resources & Forest Resources

- ☒ City of San Diego General Plan
- ☐ U.S. Department of Agriculture, Soil Survey San Diego Area, California, Part I and II, 1973
- ☐ California Agricultural Land Evaluation and Site Assessment Model (1997)
- ☐ Site Specific Report

III. Air Quality

- ☐ California Clean Air Act Guidelines (Indirect Source Control Programs) 1990
- ☐ Regional Air Quality Strategies (RAQS) APCD
- ☐ Site Specific Report

IV. Biology

- ☒ City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997
- ☒ City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" Maps, 1996
- ☒ City of San Diego, MSCP, "Multi-Habitat Planning Area" maps, 1997
- ☐ Community Plan Resource Element
- ☐ California Department of Fish and Wildlife, California Natural Diversity Database, "State and Federally listed Endangered, Threatened, and Rare Plants of California," January 2001
- ☐ California Department of Fish & Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001
- ☒ City of San Diego Land Development Code Biology Guidelines
- ☐ Site Specific Report

V. Cultural Resources (includes Historical Resources)

- ☒ City of San Diego Historical Resources Guidelines
- ☐ City of San Diego Archaeology Library
- ☐ Historical Resources Board List
- ☐ Community Historical Survey:
- ☐ Site Specific Report

VI. Geology/Soils

- ☒ City of San Diego Seismic Safety Study
- ☐ U.S. Department of Agriculture Soil Survey San Diego Area, California, Part I and II, December 1973 and Part III, 1975
- ☐ Site Specific Report

VII. Greenhouse Gas Emissions

- ☐ Site Specific Report

VIII. Hazards and Hazardous Materials

- ☐ San Diego County Hazardous Materials Environmental Assessment Listing
- ☐ San Diego County Hazardous Materials Management Division
- ☐ FAA Determination
- ☐ State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized
- ☐ Airport Land Use Compatibility Plan
- ☐ Site Specific Report

IX. Hydrology/Water Quality

- ☐ Flood Insurance Rate Map (FIRM)
- ☐ Federal Emergency Management Agency (FEMA), National Flood Insurance Program Flood Boundary and Floodway Map
- ☒ Clean Water Act Section 303(b) list, http://www.swrcb.ca.gov/tmdl/303d_lists.html
- ☐ Site Specific Report

X. Land Use and Planning

- ☐ City of San Diego General Plan
- ☐ Community Plan
- ☐ Airport Land Use Compatibility Plan
- ☐ City of San Diego Zoning Maps

- _____ FAA Determination
- _____ Other Plans
- _____

XI. Mineral Resources

- _____ California Department of Conservation Division of Mines and Geology,
Mineral Land Classification
- _____ Division of Mines and Geology, Special Report 153 Significant Resources
Maps
- _____ Site Specific Report
- _____

XII. Noise

- X** _____ City of San Diego General Plan
- _____ Community Plan
- _____ San Diego International Airport Lindbergh Field CNEL Maps
- _____ Brown Field Airport Master Plan CNEL Maps
- _____ Montgomery Field CNEL Maps
- _____ San Diego Association of Governments San Diego Regional Average
Weekday Traffic Volumes
- _____ San Diego Metropolitan Area Average Weekday Traffic Volume Maps,
SANDAG
- _____ Site Specific Report
- _____

XIII. Paleontological Resources

- X** _____ City of San Diego Paleontological Guidelines
- _____ Deméré, Thomas A., and Stephen L. Walsh, "Paleontological Resources City
of San Diego," Department of Paleontology San Diego Natural History
Museum, 1996
- _____ Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego
Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa,
Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," California
Division of Mines and Geology Bulletin 200, Sacramento, 1975
- _____ Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial
Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area,
California," Map Sheet 29, 1977
- _____ Site Specific Report
- _____

XIV. Population / Housing

- _____ City of San Diego General Plan
- _____ Community Plan
- _____ Series 11/Series 12 Population Forecasts, SANDAG
- _____

Other

XV. Public Services

City of San Diego General Plan
Community Plan

XVI. Recreational Resources

City of San Diego General Plan
Community Plan
Department of Park and Recreation
City of San Diego San Diego Regional Bicycling Map
Additional Resources:

XVII. Transportation / Circulation

City of San Diego General Plan
Community Plan
San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
San Diego Region Weekday Traffic Volumes, SANDAG
Site Specific Report

XVIII. Utilities

Site Specific Report

XIX. Water Conservation

Sunset Magazine, New Western Garden Book, Rev. ed. Menlo Park, CA:
Sunset Magazine