Appendix XXIV. Certification of Adequate Legal Authority

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OFFICE OF

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CITY OF SAN DIEGO

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August 20, 2007

Hon. Susan Ritschel, Chair
Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

Dear Ms. Ritschel:

Certification of Adequate Legal Authority

Pursuant to Regional Water Quality Control Board Order No. R9-2007-0001, Section C.2, the City of San Diego, as Copermittee in the above referenced permit, submits this certification of adequate legal authority. The undersigned chief legal counsel for the City of San Diego hereby certifies that the City has adequate legal authority to implement and enforce each requirement contained in 40 C.F.R. § 122.26(d)(2)(i)(A)-(F), and Regional Board Order No. R9-2007-0001.

The City has not implemented some requirements mandated by Order No. R9-2007-0001 that have future effective dates. The City has adequate legal authority to implement those requirements by the mandated dates, and adequate legal authority to enforce those additional requirements after they have been implemented.

The following City departments are involved with urban runoff related activities.[1]

1. General Services. The General Services Department includes the City's Storm Water Pollution Prevention Program [Program]. The Program leads the City's efforts to reduce pollutants in urban runoff and stormwater to the maximum extent practicable. These activities include, but are not limited to, public education, employee training, water quality monitoring, source identification, code enforcement, watershed management, and best management practices in development/implementation within the City's jurisdictional boundaries. The Program represents the City on stormwater and NPDES stormwater permit issues before the Principal Permittee, the county Department of Environmental Health, and the Regional Board. In addition, the Program provides technical expertise and guidance to all City departments to ensure implementation and compliance with Order No. R9-2007-0001. The Program is responsible for

[1] Attached is an organizational chart specifying these departments and key personnel.

the Jurisdictional Urban Runoff Management Program and the Standard Urban Storm Water Mitigation Plan. It administers and enforces the City's Storm Water Ordinance. In conjunction with other City departments, it develops and implements programs related to urban runoff.

2. Development Services. The Development Services Department reviews all private development and construction projects. It issues all development and construction permits and imposes conditions on those permits. It evaluates the potential environmental impacts of proposed projects for California Environmental Quality Act and other purposes. It conducts building inspections of City and private projects and activities that require a permit, which includes administering and enforcing the Land Development Code ordinances and portions of the Storm Water Ordinance.

3. Engineering & Capital Projects. The Engineering & Capital Projects Department is responsible for the planning, design, and construction of public improvements projects. This department including the Field Engineering Division, which is responsible for the inspection of City construction contracts and private development grading and public improvement permits for conformance with approved plans and specifications. The plans and specifications detail compliance with the Storm Water Ordinance and Land Development Code.

4. Metropolitan Wastewater. The Metropolitan Wastewater Department [MWWD] operates and maintains the City's municipal sewage system and is organized into six divisions, consisting of professionals in the areas of engineering, construction, operations and maintenance, environmental protection, wastewater collection, and public education and outreach. In conjunction with other City departments, MWWD administers and enforces environmental health and safety regulations, which include urban runoff and related requirements.

5. Transportation. The Transportation Department's Street Division is responsible for the operation and maintenance of streets, sidewalks, storm drains, traffic and street name signs, street lights, street sweeping, traffic signals, bridges, fences, alleys, and dirt roads. It cleans City streets, highways, and related culverts. This department cleans and maintains the City's municipal separate storm water system [MS4].

6. Environmental Services. The Environmental Services Department implements comprehensive recycling, hazardous materials management, code enforcement, and support programs. Together with other City departments, it administers and enforces environmental health regulations, which include urban runoff related requirements.

7. City Attorney. The Office of the City Attorney advises the Mayor, City Council, and City departments on legal aspects related to urban runoff matters. The Office provides legal counsel in matters between the City and the Regional Board and other Copermittees. The Office assists City departments in developing programs and ordinances. It serves as the City's attorney in administrative enforcement, civil and criminal enforcement actions related to urban runoff.

8. Other City Departments. Other City departments may plan, design, and construct certain City facilities, or parts thereof, which may trigger urban runoff related requirements. In that capacity, these City departments comply with the Storm Water Ordinance and the Land Development Code.

9. All City Departments. All City departments comply with the Storm Water Ordinance in all aspects of their daily field operations. Additionally, all City departments involved in urban runoff related activities will educate and train City staff and, as appropriate, those persons outside the City.

The following urban runoff related ordinances are currently in effect:

1. Health and Sanitation Ordinances, San Diego Municipal Code Chapter 4, which includes among other ordinances, the Storm Water Ordinance at sections 43.0301 through 43.0312.

2. Land Development Code, San Diego Municipal Code Chapters 11, 12, 13, and 14. These ordinances are enforceable because the City has the authority under the California Constitution and California statutes to enact and enforce these duly enacted ordinances. Some of these ordinances are implemented through permit programs and some are implemented as regulatory programs. The ordinances are subject to public notice and comment prior to enactment and are subject to judicial scrutiny.

The City has both legal and administrative procedures available to mandate compliance with urban runoff related ordinances and Order No. R9-2007-0001. The City can issue criminal misdemeanor complaints, seek injunctive relief or civil penalties. Additionally, the City can mandate compliance through its sampling authority, cease and desist orders, cleanup and abatement orders, and monitor and mitigation authority. The City has both the power to issue administrative orders and use the court system for enforcement actions.

The City looks forward to working with you and the Regional Board on urban runoff matters.

Sincerely yours,

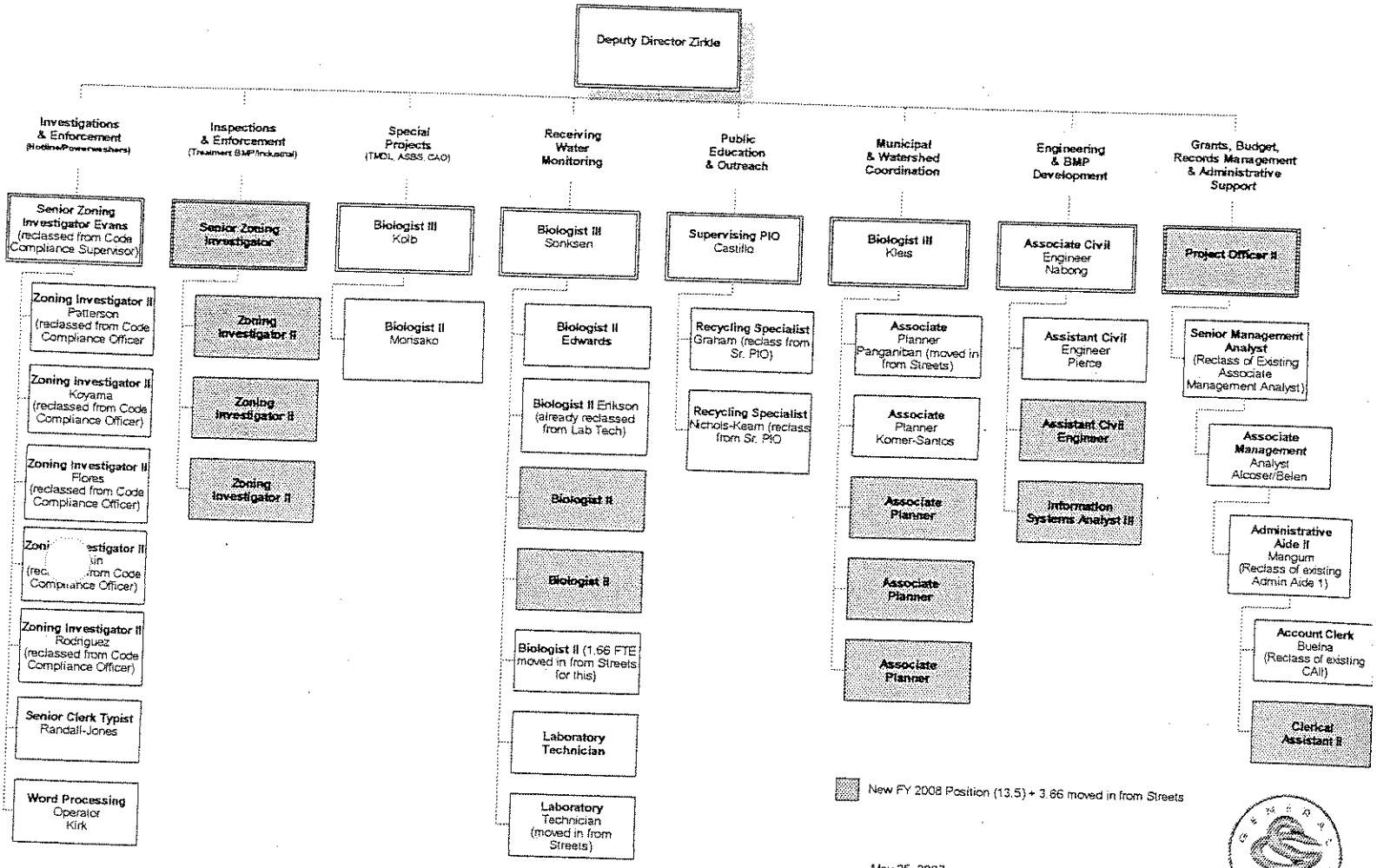
MICHAEL J. AGUIRRE
City Attorney

FMO:mb
Attachment
cc: John Robertus, Executive Officer,
Regional Water Quality Control Board,
San Diego Region

General Services Department

Storm Water Pollution Prevention Division

Fiscal Year 2008 Budgeted Organization Chart



May 25, 2007
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