

Exhibit A-4.I

- Letter of Legal Authority – San Diego Region
- Letter of Legal Authority – Santa Ana Region





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COUNTY OF ORANGE

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File No. W-460

December 16, 2010

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David Gibson
Executive Officer
Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Re: Legal Authority to Implement and Enforce the Requirements of
40 CFR 122.26(d)(2)(i)(A-F) and RWQCB Order R9-2009-0002

Dear Mr. Gibson:

The County of Orange and the Orange County Flood Control District ("County") submits this statement in its capacity as the principal permittee under RWQCB Order R9-2009-0002 ("Order") in accordance with Directive E.2 of the Permit Requirements of that Order. As you are aware, the County and a number of co-permittees are currently seeking review of certain portions of the Order, the outcome of which may alter its terms and conditions. Consequently, this statement is not nor should it be construed as a waiver of any rights the County may have to bring or maintain a legal challenge to the Order or to raise any factual or legal issues as part of any such challenge. The County hereby reserves any and all such rights.

1. Legal Authority Statement

The undersigned Supervising Deputy County Counsel for the County of Orange and the Orange County Flood Control District does hereby state that the County has or will timely obtain adequate legal authority to comply with the legal requirements imposed upon the County under RWQCB Order No. R9-2009-0002, consistent with the requirements set forth in the regulations to the Clean Water Act, 40 CFR [Code of Federal Regulations] 122.26(d)(2)(i)(A-F), and to the extent permitted by State and Federal law and subject to the limitations on municipal action under the California and United States Constitutions.

2. Status of Implementation

The County has not yet implemented some of the requirements imposed by the Order that have future effective dates. The County is also in the process of

amending its ordinances. The County has or will have adequate legal authority, as envisioned by the Clean Water Act and applicable regulations to implement such requirements by the mandated dates, and to enforce such additional requirements after they have been implemented when those ordinance revisions are final. The legal authority of the County is subject to limitations in California and federal law and subject to the limitations on municipal action under the constitutions of California and the United States. The exercise of its legal authority, therefore, is subject to those limitations.

3. County Departments

Attached is a table listing the County departments involved with the regulation of runoff along with a brief description of the department's runoff related functions. Generally, the County's jurisdiction is limited to the unincorporated areas of the County.

In some cases, such as the Public Health Officer function of the Health Care Agency ("HCA")/ Environmental Health, the County contracts with various cities to provide a governmental function within the incorporated city. The County official in that case is acting pursuant to a contract with the city and is enforcing city ordinances.

In some cases, County departments may be certified by the State to regulate certain activities. In these cases, the County department may have authority to regulate activities within incorporated cities as well as within the unincorporated areas of the County. They are, however, enforcing State statutes and regulations and *not* County requirements. The County Board of Supervisors cannot interfere with their statutory duties. Examples of such departments include the County Agricultural Commissioner/Sealer of Weights and Measures, a department within the County's OC Public Works agency; the Local Enforcement Agency, a function within the County HCA/Environmental Health that regulates solid waste handling and disposal activities; and the Certified Unified Program Agency also within the County HCA/Environmental Health, which regulates underground storage tanks as well as other aspects of petroleum and hazardous materials storage and release prevention and response planning.

4. Ordinances

List of Ordinances

Attached is a table listing the various County Ordinances related to runoff. These ordinances are generally applicable only within the unincorporated areas of the County. This list also identifies the County department principally responsible for assuring compliance with the ordinance.

Enforceability

The County has the authority under the Constitution and statutes of the State of California to enact and enforce ordinances. Ordinances listed in the attached table have been duly enacted by the County. These ordinances contain specific enforcement provisions such as the suspension and revocation of permits provisions in the Building Code and/or are enforceable under the generally applicable enforcement provisions of the County Code (Orange County Codified Ordinance (“OCCO”) Sec. 1-1-34 et seq. (misdemeanor), OCCO Sec. 1-1-40.1 (civil fine), and OCCO Sec. 1-1-40.13 (administrative penalties)).

Implementation and Challenge

Some of these ordinances are implemented through permit programs and some are implemented as regulatory programs. Under each ordinance, one or more County departments or department directors are authorized and directed in each ordinance to take the actions contemplated by the ordinance, *e.g.*, to consider evidence and make findings, to issue or deny permits, to impose conditions on projects, to inspect, to take enforcement action, etc.

The County Water Quality Ordinance is the principle County ordinance addressing runoff. This ordinance is regulatory, and applies to all development projects and to all new and existing facilities in the County's jurisdiction, whether or not a County permit or approval is required. The Water Quality Ordinance contains discharge prohibitions and BMP requirements. This ordinance also authorizes the County to require the submission of stormwater pollution prevention plans.

Other County ordinances require compliance with the Water Quality Ordinance as a condition for issuance of a County permit. For example, OC Planning is the County's planning department and is responsible for approving development and issuing grading and building permits within the unincorporated areas of the County. County departments may also impose specific conditions of approval consistent with the Water Quality Ordinance.

The California Environmental Quality Act (“CEQA”) applies to discretionary approvals by the County. CEQA requires the evaluation of the environmental impacts of a project before approval. This would include the impacts of the proposed project on water quality, including runoff.

Although proposed County ordinances are not subject to appeals, they are subject to a public notice and comment process prior to enactment. Enacted County ordinances can be challenged by timely filing writs of mandate in superior court. The referendum and initiative process can also be used to challenge enacted ordinances. The imposition of administrative

penalties and fines under these ordinances (where applicable) can be appealed to the courts. Trial court decisions to impose civil penalties or to grant injunctive or other relief can also be appealed.

5. Administrative and Legal Procedures

In addition to the above authority, the County has in place the following legal and administrative procedures to assist in enforcing the various runoff related ordinances:

Administrative Remedies

- Notice of Non-Compliance/Notice of Violation
- Administrative Compliance Orders
- Cease and Desist Orders
- Stop work orders (for work requiring a County permit)
- Administrative penalties
- Permit revocation or withdrawal

Nuisance Remedies

- Public nuisance under State law
- County nuisance abatement procedures

Criminal Remedies

- Infraction citations/ prosecution (County Code default)
- Misdemeanor citations/ prosecution (explicitly authorized for grading violations and stormwater violations)
- Restitution

Equitable Remedies

- Injunctive relief under State law
- Declaratory relief under State law

Other Civil Remedies


- Federal law remedies, e.g. CWA and RCRA Citizen Suits

David Gibson, Executive Officer
Regional Water Quality Control Board
December 16, 2010
Page 5

Please do not hesitate to contact the undersigned should you have any questions or need any additional information.

Very truly yours,

NICHOLAS S. CHRISOS
COUNTY COUNSEL

By 
Geoffrey K. Hunt, Supervising Deputy

GKH

Enclosures

cc: Jess Carbajal, Director, OCPW
Mary Anne Skorpanich, Manager, OCPW/OC Watersheds



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File No. W-460

May 21, 2010

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Santa Ana Region
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Re: Legal Authority to Implement and Enforce the Requirements of
40 CFR 122.26(d)(2)(i)(A-F) and RWQCB Order R8-2009-0030

Dear Mr. Thibeault:

The County of Orange ("County") submits this statement in its capacity as the principal permittee under RWQCB Order R8-2009-0030 ("Order") in accordance with Section VI.4 of the Permit Requirements of that Order. As you are aware, the County and a number of co-permittees are currently seeking review of certain portions of the Order, the outcome of which may alter its terms and conditions. Consequently, this statement is not nor should it be construed as a waiver of any rights the County may have to bring or maintain a legal challenge to the Order or to raise any factual or legal issues as part of any such challenge. The County hereby reserves any and all such rights.

1. Legal Authority Statement

The undersigned Supervising Deputy County Counsel for the County of Orange does hereby state that the County has or will timely obtain adequate legal authority to comply with the legal requirements imposed upon the County under RWQCB Order No. R8-2009-0030, consistent with the requirements set forth in the regulations to the Clean Water Act, 40 CFR [Code of Federal Regulations] 122.26(d)(2)(i)(A-F), and to the extent permitted by State and Federal law and subject to the limitations on municipal action under the California and United States Constitutions.

2. Status of Implementation

The County has not yet implemented some of the requirements imposed by the Order that have future effective dates. However, the County has or will have adequate legal authority, as envisioned by the Clean Water Act and applicable regulations, to

implement such requirements by the mandated dates, and to enforce such additional requirements after they have been implemented, all to the extent permitted by California and federal law and subject to the limitations on municipal action under the constitutions of California and the United States.

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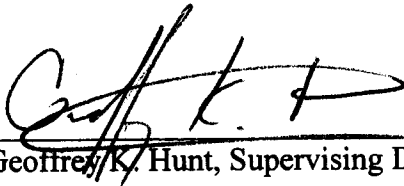
- Federal law remedies, *e.g.* CWA and RCRA Citizen Suits

Please do not hesitate to contact the undersigned should you have any questions or need any additional information.

Gerard J. Thibeault, Executive Officer
Regional Water Quality Control Board
May 21, 2010
Page 5

Very truly yours,

NICHOLAS S. CHRISOS
COUNTY COUNSEL

By 
Geoffrey K. Hunt, Supervising Deputy

GKH

Enclosures

cc: Jess Carbajal, Director, OCPW
Rick Lefevre, Director, OCPW/OC Planning
Mary Anne Skorpanich, Director, OCPW/OC Watershed

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
NPDES Program Management/ Coordination	OC Public Works/OC Environmental Resources	Principal Permittee for County-wide NPDES Program Program Manager for County of Orange/ Orange County Flood Control District Stormwater Program	<ul style="list-style-type: none"> • <i>Administers and enforces the County and OCFCD Water Quality Ordinances</i> • <i>Coordinates Count-wide stormwater program</i> • <i>Coordinates County internal stormwater program</i> • <i>With OC Planning, provides training and guidance materials to private developers and County employees and managers</i> 	County of Orange Ordinance -- Title 4, Division 13 OCCO § 4-13-10 et seq. Orange County Flood Control District Ordinance-- Title 9, Division 1 OCCO § 9-1-10 et seq.
Public Works	OC Public Works/ OC Construction	Oversight of construction of most Public Works Projects for the County	<ul style="list-style-type: none"> • <i>Conducts inspections of County projects and activities that require a permit under a Public Works-administered program</i> • <i>Designs and constructs certain County projects</i> • <i>Reviews proposed designs for certain County projects</i> • <i>Maintains certain County projects</i> 	Not Applicable
Public Works	OC Public Works/ OC Engineering/OC Operations & Maintenance	Maintains County public facilities and resources	<ul style="list-style-type: none"> • <i>Cleans County streets and highways and related culverts</i> • <i>Cleans and maintains the County MS4</i> 	Title 9, Division 1 OCCO § 9-2-10 et seq. (for public facilities only)

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
Public Works	OC Public Works/OC Fleet Services and OC Facilities Maintenance & CUF	Maintains County vehicle fleet and maintains County public facilities and resources	<ul style="list-style-type: none"> • <i>Assures inclusion of appropriate BMPs into the design, construction and post-construction operation/maintenance of County facilities.</i> 	Not Applicable
Public Works	OC Community Resources/OC Waste & Recycling	Maintains County owned landfills	<ul style="list-style-type: none"> • <i>Operates 3 active County owned landfills, 4 household hazardous waste collection centers (HHWCC) and monitors 12 closed County operated landfills</i> • <i>Develops and distributes public education material concerning the proper disposal of household hazardous waste.</i> • <i>Administers the Countywide Integrated Waste Management Plan (CIWMP)</i> • <i>Develops and distributes public education materials designed to increase recycling.</i> • <i>Administers municipal solid waste collection, recycling, and planning for the County unincorporated area</i> • <i>Designs and constructs projects at County owned landfills</i> • <i>Reviews proposed designs for projects at County owned landfills</i> 	Title 4, Division 3, Article 2 OCCO § 4-13-17 et seq.

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
Public Works	Sheriff-Coroner	Maintains jails and vehicles	<ul style="list-style-type: none"> • <i>Maintains all County Sheriff-Coroner facilities, courthouses, and vehicles.</i> • <i>Designs and constructs projects at County Sheriff-Coroner facilities</i> <i>Reviews proposed designs for projects at County Sheriff-Coroner facilities</i>	All County Codified Ordinances
Public Works	Probation	Maintains and operates Probation facilities	<ul style="list-style-type: none"> • <i>Maintains all County Probation facilities and vehicles</i> 	Not Applicable
Planning	OC public Works/OC Development Services/ Permitting	Reviews grading permit applications for water quality and other requirements necessary to issue permits; enforces Grading Ordinance, Grading Manual, and Grading and Excavation Code	<ul style="list-style-type: none"> • <i>Administers and enforces the Grading Ordinance found at OCCO § 7-1-800 et seq.</i> • <i>Administers other County land development, clearing, and grading ordinances and plans and related state laws, including but not limited to "The Comprehensive Zoning Code" (OCCO § 7-9-19 et seq.); and the County Subdivision Code (OCCO § 7-9-200 et seq.)</i> • <i>Issues grading permits for development projects and imposes conditions on such permits</i> 	Grading Ordinance Title 7, Division 1, Article 8, OCCO § 7-1-800 et seq. The Comprehensive Zoning Code-Title 7, Division 9, Article 2, OCCO § 7-9-19 et seq. Subdivision Code-Title 7, Division, 9, Article 3, OCCO § 7-9-200 et seq.

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
Planning	OC Public Works/OC Development Services/Planning	Reviews plans for environmental impacts; administers CEQA process for County	<ul style="list-style-type: none"> • <i>Evaluates the potential environmental impacts of proposed projects for CEQA and other purposes, and provides recommendations to lead agencies, Planning Commission, and Board of Supervisors concerning potential project impacts and means to mitigate those impacts</i> 	California Public Resources Code, Division 13, § 21000 et seq. (CEQA)
Planning	OC Public Works/OC Development Services/Permitting and Building & Safety	Reviews building permit applications for water quality and other requirements necessary to issue permits; enforces Building Code	<ul style="list-style-type: none"> • <i>Administers and enforces County Uniform Building Code, OCCO § 7-1-12 et seq. ("Building Code")</i> • <i>Issues building permits for development projects and imposes conditions on such permits</i> • <i>Administers other County land development, ordinances and plans and related state laws, including but not limited to "The Comprehensive Zoning Code" (OCCO § 7-9-19 et seq.); and the County Subdivision Code (OCCO § 7-9-200 et seq.)</i> • <i>Administers and enforces the County Landscape Irrigation code, OCCO* § 7-9-132.2 et seq.</i> 	<p>Title 7, Division 1, Article 2 OCCO § 7-1-12 et seq.</p> <p>Title 7, Division 9, OCCO* § 7-9-132.2 et seq. (Landscape Irrigation Code)</p>

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
Environmental Health	HCA/ Environmental Health	Operates Public Health Programs	<ul style="list-style-type: none"> • <i>Operates food preparation inspection program for the County unincorporated areas as well as many cities within Orange County</i> • <i>Serves as the certified CUPA, regulating underground storage tanks as well other aspects of petroleum and hazardous materials storage and release prevention and response planning. HCA/ Environmental Health is the CUPA for the County unincorporated area and most of the cities in Orange County</i> • <i>Serves as the Local Enforcement Agency (LEA) regulating solid waste handling and disposal facilities within Orange County</i> • <i>Performs coastal outfall bacterial monitoring in support of Public Health and Stormwater programs.</i> 	Title 4, Division 4, Article 2 OCCO § 4-4-14 et seq.

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
Parks Maintenance	OC Community Resources/OC Parks	Operates and maintains regional recreational facilities	<ul style="list-style-type: none"> • <i>Reviews development agreements related to parks</i> • <i>Administers various County facilities and parts thereof</i> • <i>Participates in Municipal Activities Sub-Committee</i> • <i>Reviews certain applications for clearing and grading permits or for exemptions from the requirement to obtain such permits</i> • <i>Designs and constructs certain County facilities</i> 	Not Applicable
Agriculture, Weights, and Measures	OC Public Works/OC Environmental Resources/Agricultural Commissioner/Weights and Measures		<ul style="list-style-type: none"> • <i>Provides County liaison to the agricultural community</i> • <i>Provides training and distributes guidance materials to the agricultural community</i> 	Not Applicable
Library	OC Community resources/OC Public Libraries	Operates a countywide public library system	<ul style="list-style-type: none"> • <i>Distribute public education materials related to urban runoff</i> 	Not Applicable
County Clerk	Clerk of the Board of Supervisors		<ul style="list-style-type: none"> • <i>Administers the agenda of the Orange County Board of Supervisors meetings and is responsible for posting notices for public hearings including public hearings required by CEQA</i> 	Not Applicable
County Counsel	County Counsel	County's Legal Department	<ul style="list-style-type: none"> • <i>Advises the County Board of Supervisors and County departments on legal aspects of stormwater related matters</i> • <i>Assists in liaison with the RWQCB and staff, and in liaison</i> 	Not Applicable

COUNTY DEPARTMENTS
Water Quality Related Functions

Function	County Department	Description of Department's Functions	Department's Water Quality Related Functions	Ordinances Department Enforces
			<p><i>with other jurisdictions</i></p> <ul style="list-style-type: none"> • <i>Assists County Departments in developing programs and ordinances</i> • <i>Supports administrative enforcement by County departments</i> • <i>Serves as attorney for the County in some civil enforcement actions related to urban runoff</i> • <i>Participates in Legal Authority Sub-Committee</i> 	
Public Works Director	OC Public Works Director		<ul style="list-style-type: none"> • <i>Coordinates and directs the urban-runoff related efforts of OC Public Works departments</i> • <i>Advises the County Board of Supervisors on the policy and economic aspects of urban runoff related matters</i> • <i>Decentralized public works responsibilities</i> 	Not Applicable
Other County Functions			<ul style="list-style-type: none"> • <i>A number of other County departments manage County-owned and County-leased facilities necessary to the performance of the functions of that department and would be responsible for BMPs related to those facilities. A number of other County departments provide training, are involved in watershed planning and may distribute guidance materials related to urban runoff.</i> 	

COUNTY DEPARTMENTS
Water Quality Related Functions

NOTES:

All ordinance references are to ordinances of the County of Orange or to ordinances of the Orange County Flood Control District.

The following is a list of acronyms used in this table:

BMP	Best Management Practice
CEQA	California Environmental Quality Act
CIWMP	Countywide Integrated Waste Management Plan
CUPA	Certified Unified Program Agency
HCA	County of Orange Health Care Agency
HHWCC	Household Hazardous Waste Collection Center
OCWR	OC Waste & Recycling
MS4	Municipal Separate Stormwater Sewer System
NPDES	National Pollutant Discharge Elimination System
OCCO	Orange County Codified Ordinances or County Code
OCP	OC Planning
RWQCB	Regional Water Quality Control Board

County of Orange and Orange County Flood Control District Ordinances Relevant to the NPDES Permits Governing the County's MS4 System		
Description	County Department(s) Primarily Responsible for Assuring Compliance	Citation
The Grading Ordinance (Grading and Excavation Code; Grading Manual)	OC Public Works/OC Planning/ Grading Permit Services	Title 7, Division 1, Article 8 OCCO* § 7-1-800 et seq.
The Water Quality Ordinances	OC Public Works/OC Watersheds	<u>Orange County Ordinance</u> Title 4, Division 13 OCCO* § 4-13-10 et seq. <u>Orange County Flood Control District Ordinance</u> Title 9, Division 1 OCCO* § 9-1-10 et seq.
CEQA Guidelines	OC Public Works/OC Planning/Land Use/ Environmental Planning	California Code of Regulations, Title 14, Chapter 3, § 15000 et seq.
Litter Ordinance	OC Public Works/OC Watersheds <i>Litter Ordinance is included within the Water Quality Ordinances</i>	<u>Orange County Ordinance</u> Title 4, Division 13 OCCO* § 4-13-10 et seq. <u>Orange County Flood Control District Ordinance</u> Title 9, Division 1 OCCO* § 9-1-10 et seq.
Fats, Oils, and Grease Ordinance	OC Public Works/OC Planning/Code Enforcement Health Care Agency/ Environmental Health	Title 9, Division 1, OCCO* § 9-1-120 et seq.
Landscape Irrigation Ordinance	OC Public Works/OC Planning	Title 7, Division 9, OCCO* § 7-9-132.2 et seq.

* Orange County Codified Ordinances