

C-4.0 LEGAL AUTHORITY

C-4.1 Introduction

The ability of the Permittees to comply with the requirements of the Permits is contingent upon the establishment of adequate legal authority to support control program implementation. This section discusses the status of the Permittee's legal authority which is based upon a 1993 Model Water Quality Ordinance that was used by the Permittees as the basis of their local ordinances that were adopted by 1997.

C-4.2 Accomplishments

With the adoption of the Third Term Permits in early 2002, the Permittees reviewed and verified the sufficiency of their legal authority as the legal basis for the activities required for Third Term Permit compliance, primarily **DAMP Sections 7.0, 8.0, 9.0, and 10.0**. Following this validation, the responsibility for maintaining the efficacy of this key program element has rested with the Legal and Regulatory Task Force (see **Section C-2.3.2**). The major focus during the reporting period was on NPDES Permit renewal.

4.3 Assessment

The program effectiveness assessment outcome level for the **DAMP Section 4.0** is presented in **Table C-4.1**. Beyond confirming compliance with the Permits, the Permittees' legal authority can also be assessed in the context of the sections of the DAMP that it primarily supports.

C-4.3.1 Legal Authority to Implement Existing Development and ID/IC Programs

The single test of the Permittees' legal authority occurred in 2005-06 when the request for a site clean-up, predicated on the authority of a jurisdiction's water quality ordinance, was formerly challenged under the ordinance's appeal provisions. The jurisdiction prevailed in the third party adjudicated appeal hearing and again at a subsequent trial in an action brought by the Orange County District Attorney. This outcome, in addition to the numerous successful administrative actions and citations detailed in **Sections 8.0, 9.0 and 10.0** of this report, validates the robustness of the Permittees' legal basis for implementing **DAMP Sections 9.0 and 10.0**.

C-4.4 Summary

The Permittees validated the legal basis for implementing the DAMP in early 2002 and over the period of the Third Term Permits have continued to review aspects of this legal authority under the aegis of the Legal and Regulatory Task Force. This review and the formal legal challenge to this authority discussed above have served to affirm the fundamental robustness of the Permittees' water quality ordinances. During the reporting period the efforts of the Task Force have focused primarily on legal issues related to permit renewal by both the Santa Ana and San Diego Regional Boards.

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Table C-4.1: Current and Potential Outcome Levels (Legal Authority)

Legal Authority	Effectiveness Assessment Outcome Levels					
	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6
	Implement Program	Increase Awareness	Behavior Change	Load Reduction	Runoff Quality	Receiving Water Quality
Water Quality Ordinance	✓ Adopt and Maintain Adequate Legal Authority					
<p><u>Key:</u> ✓ = Currently Achieved Outcome Level P = Potentially Achievable Outcome Level</p>						