June 15, 2009

Mr. Robert Perdue  
Executive Director  
California Regional Water Quality Control Board  
Colorado River Basin Region  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

Re: Statement of Legal Authority to Implement and Enforce the Requirements of RWQCB Order R7-2008-0001

Dear Mr. Perdue:

The City of Palm Springs submits this statement in its capacity as a co-permittee under RWQCB Order R7-2008-0001, in accordance with Section E.4 of that Order.

1. Statement of Legal Authority

The undersigned City Attorney of the City of Palm Springs ("City") does hereby state that the City has adequate legal authority to implement and enforce the legal requirements imposed upon the City to date under RWQCB Order No. R7-2008-0001, 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 ("Legal Authority").

The co-permittees have agreed that the County of Riverside ("County") and the Riverside County Flood Control and Water Conservation District ("Flood Control District") are to serve as the Principal Permittees under this Order. This statement assumes the County and Flood Control District also have adequate legal authority to comply with the requirements imposed on them as the Principal Permittees by the Order, to the extent permitted by State and Federal Law, and that the Principal Permittees will exercise their legal authority as appropriate to comply with the Order.
2. **Future Potential Ordinance Amendments and Implementation Schedule**

Notwithstanding the above statement, the City intends to consider certain amendments to its existing stormwater management and discharge control ordinance (Palm Springs Municipal Code, Title 8, Chapter 8.70) to clarify its legal authority to enforce and implement the requirements of the Order and to better facilitate such enforcement and implementation. Such amendments may include, without limitation, the following:

- Minor amendments to the existing list of permitted exceptions to the illicit discharge prohibition to correct minor typographical errors and to achieve consistency with language of Section C(2) of the Order.

- The addition of specific provisions applicable to industrial and commercial activities and facilities in order to more clearly define such activities and facilities, to clarify the City’s existing authority to control the contribution of pollutants to the MS4 from such activities or facilities and to require programs of inspection.

- The addition of language to the existing provisions regulating new development and redevelopment to clarify the City’s authority to require project compliance with the SWMP, the New Development Guidelines, and the WQMP design standards for Priority Development Projects set forth in Section F(1)(c) of the Order and to impose conditions of approval on project permit and land use approvals requiring such compliance.

- The addition of language clarifying the City’s existing authority to require WQMPs for all projects and explicitly setting forth applicable procedures.

- The addition of provisions authorizing cost recovery related to the review of new development or significant redevelopment projects for compliance with the SWMP and other applicable requirements.

- The revision to and/or addition of provisions to the “enforcement” sections of the existing ordinance to clarify the City’s existing administrative enforcement authority, to specifically reference applicable administrative enforcement methods authorized in other parts of the Municipal Code, to ensure consistency with the terminology used in Section 1.7 of the SWMP, and/or to summarize all existing applicable enforcement options in the same location.

- The addition of a provision regarding on-site retention of runoff.

The City’s Public Works Department and the City Attorney’s Office are currently developing proposed language for such ordinance amendments and anticipate agendizing them
for review by the Palm Springs City Council on or before December 2, 2009. Amendments to existing City ordinances must themselves be adopted by ordinance. This requires two readings, at least five days apart. City ordinances become effective thirty-one (31) days after adoption. Accordingly, assuming City Council approval, City staff currently anticipates that some or all of the above-referenced ordinance amendments will take effect by January 15, 2010.

3. **Basis for Legal Authority**

   The City’s Legal Authority is based on the Palm Springs Municipal Code (“PSMC”) and Riverside County ordinances which are incorporated by reference in the PSMC including, but not limited to¹:

<table>
<thead>
<tr>
<th>Source of Authority</th>
<th>Subject</th>
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<tbody>
<tr>
<td>PSMC Sections 1.01.140 - 1.01.240</td>
<td>Violations of the Municipal Code and Enforcement</td>
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<tr>
<td>PSMC Chapter 1.06</td>
<td>Community Improvement and Administrative Citations</td>
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<tr>
<td>PSMC Chapter 1.08</td>
<td>Citations In Lieu of Immediate Arraignment</td>
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<tr>
<td>PSMC Chapter 6.04</td>
<td>Waste Disposal and Diversion</td>
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<td>PSMC Chapter 6.05</td>
<td>Collection, Transportation and Removal of Waste Products</td>
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<tr>
<td>Riverside County Ordinance No. 712</td>
<td>Collection, Transportation and Removal of Waste Products</td>
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<tr>
<td>PSMC Chapter 8.60</td>
<td>Water Efficient Landscaping</td>
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<tr>
<td>PSMC Chapter 8.70</td>
<td>Stormwater Management and Discharge Controls</td>
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<tr>
<td>Riverside County Ordinance No. 457</td>
<td>Erosion and Sediment Control</td>
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<tr>
<td>PSMC Title 9</td>
<td>Planning</td>
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<tr>
<td>PSMC Chapter 11.72</td>
<td>Public Nuisances</td>
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<tr>
<td>PSMC Chapter 14.24</td>
<td>Water and Rubbish in Streets</td>
</tr>
<tr>
<td>PSMC Chapter 15.28</td>
<td>Sewer Use Regulations</td>
</tr>
<tr>
<td>PSMC Chapters 91.00 - 94.00</td>
<td>Zoning Code</td>
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4. **No Waiver**

   This letter is not nor should it be construed as a waiver of any rights the City may have to bring or maintain a legal challenge to any enforcement action by the Board against the City of

¹ Copies of these authorities are enclosed. PSMC Chapters 91.00 - 94.00 have recently been amended by Palm Springs Ordinance No. 1758. Although Ordinance No. 1758 is not relevant here, a copy is included because it is referenced in the enclosed copies of PSMC Chapters 91.00 - 94.00.
Palm Springs pursuant to the Order or to raise any factual or legal issues as part of any such challenge. The City hereby reserves any and all such rights.

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

Very truly yours,

WOODRUFF, SPRADLIN & SMART
A Professional Corporation

DOUGLAS C. HOLLAND

Enclosures
cc: Dave Barakian, City Engineer/Public Works Director (via email w/o enclosures)
    Marcus Fuller, Assistant City Engineer/Assistant Public Works Director (via email w/o enclosures)