

Exhibit A: Lower San Gabriel River Watershed

I. Draft Watershed Management Program

In reviewing the Lower San Gabriel River Watershed Draft Watershed Management Program, we identified several issues of concern or noncompliance with permit requirements. We discuss a number of those concerns below, although this discussion is not intended as an exhaustive analysis of the WMP's deficiencies.

A. Watershed Characterization

The WMP's characterization of current pollutant loading in the Lower San Gabriel River watershed is, in general, based on data and analysis of conditions in the main stem San Gabriel River, which is almost entirely upstream of the LSGR watershed and therefore may vary in pollutant composition and concentration from lower areas of the watershed.¹ Differences in land use, and potential runoff volumes in the heavily developed LSGR watershed must thus be addressed, quantitatively or qualitatively, in the WMP to account for differences from the areas where data were collected.

B. Water Body Pollutant Characterization and Compliance Deadlines

Permittees incorrectly identify pollutants subject to the San Gabriel River Metals and Selenium TMDL as "Category 1B" pollutants subject to "Interim deadlines within permit term."² This TMDL, which has been in effect since 2007, sets numeric WLAs based on the California Toxics Rule ("CTR") (40 C.F.R. 131.36(d)(10)) criteria. Compliance schedules for CTR-based limits are authorized through the Inland Surface Water Plan ("ISWP"), which only authorizes compliance schedules for a maximum of 10 years from the time CTR criteria were first promulgated, and states that no discharger can be given a compliance schedule to meet CTR criteria after May 18, 2010.³ The interim limits for TMDL compliance in the WMP are therefore not authorized, and these pollutants should be categorized as "Category 1F" pollutants which are "Past final deadlines."⁴

It is also unclear how the WMP's classification of sub-categories were created. For example, past final TMDL deadlines are a lower category than final deadlines that fall within the Permit term.⁵ Non-compliance with TMDL past final deadlines should be the highest priority in WMPs. A discussion of the relevant sub-categories should be included in the LSGR WMP.

¹ John L. Hunter and Associates (June 27, 2014) Lower San Gabriel Watershed Management Program, at 2-14 et seq. ("Lower San Gabriel River WMP").

² *Id.* at 2-1.

³ State Board Resolution No. 2000-15, Policy for the Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, at 19; see also October 23, 2006 EPA Letter re: California SIP, Compliance Schedule Provisions; State Board Memo dated September 15, 2006 Re: CTR Compliance Schedules; State Board Resolution No. 2008-0025 at 4; Final Staff Report, State Board Resolution No. 2008-0025 at 10; Final Response to Written Comments, State Board Resolution No. 2008-0025 at 6, 9, 10, 18-19, 26.

⁴ *See*, Lower San Gabriel WMP, at 2-1.

⁵ *Id.*

C. Assumptions Regarding Pollutant Reduction

The Reasonable Assurance Analysis (“RAA”) for the LSGR⁶ states that “a 10 percent load reduction was assumed to result from implementation of all nonstructural control measures outlined in the WMPs.”⁷ The RAA provides no evidence or justification to support this claim, and in general, the programs identified to meet this reduction are not fully defined.

Similarly, the Lower Rivers/Channel RAA states that “a 10% load reduction is *assumed* to result from the cumulative effect of nonstructural BMPs. Also, the effects of a 25 percent reduction in irrigation of urban grass was explicitly simulated in the model to estimate the resulting associated reduction of dry weather flows at the RAA Assessment Points.”⁸ The RAA claims that a 25 percent reduction in irrigation water will result in a roughly 60 percent reduction in overall dry weather pollutant loadings.⁹ No justification or evidence is provided to support these claims, which given their large claimed potential effect, have a correspondingly large potential for negative impact if proven wrong. The RAA must provide quantitative justification for its non-structural/irrigation related pollutant reduction claims, including greater detail regarding non-structural control practices and implementation plans, or the Regional Board must reject them as unsupported.

D. Reliance on Other Processes for Pollution Reduction

Lower San Gabriel River permittees disproportionately rely on future legislative or policy changes to reduce current pollutant loads and to justify proposed management actions. For example, they rely on SB 346, legislation related to copper brakes, to reduce copper loading and comply with RWLs or copper limits in Metals TMDLs.¹⁰ While Environmental Groups also anticipate copper reduction over the next decade as SB 346 is implemented, the permittees must demonstrate through modeling or some other mechanism the extent of the legislation’s predicted

⁶ Tetra Tech and Paradigm Environmental (June 6, 2014) Reasonable Assurance Analysis for Lower Los Angeles River, Los Cerritos Creek, and Lower San Gabriel River (“Lower Rivers/Channel RAA”).

⁷ *Id.* at 46.

⁸ *Id.* at 51.

⁹ *Id.*

¹⁰ *See e.g.* Lower San Gabriel River WMP at 3-2, 3-29. The permittees estimate a 45-60 percent reduction in copper runoff as a result of SB 346 implementation, but fail to provide site-specific analyses to substantiate those claims or to demonstrate how the legislation will enable permittees to meet interim or final WQBELs or RWLs. (Lower San Gabriel River WMP, at 3-2). The Los Cerritos Channel Watershed Group commissioned a study, “Estimate of Urban Runoff Copper Reduction in Los Angeles County,” but failed to attach it to the WMP, making the group’s claims difficult to evaluate further. (Los Cerritos Channel WMP, at 3-4). Further, this figure would appear to contradict figures claimed by the group’s RAA, which states, “the Brake Pad Partnership commissioned several technical studies to better quantify the fate and transport of copper to San Francisco Bay including a detailed source assessment. Overall findings of the study estimated that of the anthropogenic sources of copper, approximately 35 percent are attributed to brake pad releases.” (Lower Rivers/Channel RAA at 38.)

impact in the relevant sub-watersheds so that they can determine what further action may be necessary.

Even more speculatively, permittees mention the regulation of zinc in tires through potential legislation, which has yet to be drafted or passed.¹¹ Referring to such potential measures as part of a pollution control program is inappropriate, as there is no guarantee that the legislation will ever be adopted.

E. Reliance on Other Parties for Pollution Reduction

The Lower Rivers/Channel RAA states that, in developing target runoff and pollutant reduction targets for the watershed permittees:

Each jurisdiction in the Group's WMP area is subject to stormwater runoff from non-MS4 facilities. . . . It will be important for these entities to retain their runoff and/or eliminate their cause/contribution to receiving water exceedances. The runoff from these non-MS4 facilities was therefore estimated and subtracted from the cumulative volume reduction goal (Section 7) to establish the MS4 responsible targets.¹²

However, the permittees are prohibited, through implementation of a WMP, from causing *or contributing* to an exceedance of the Permit's RWLs. In the event that these non-MS4 sources continue to add pollutant load to area receiving waters, the WMP groups' contributions based on their adjusted targeted reduction may nevertheless result in an exceedance, and their assumption that non-MS4 sources will actually eliminate their contribution to receiving water exceedances is improper.

F. Lack of Specificity for Proposed Projects

The 2012 Permit requires that, "[e]ach plan shall include...[f]or each structural control and non-structural best management practice, the number, type, and location(s) and/or frequency of implementation." (2012 Permit, at VI.C.5.b.iv(4).) Permittees must also specify interim milestones and dates for achievement for each structural and non-structural BMP. (*Id.*) Although hundreds of *potential* BMP sites for regional or street right-of-way sites were identified in the LSGR WMP, the LSGR permittees do not provide any specifics on BMP type, location, or size. While the Lower Rivers/Channel RAA does present an allocation of BMPs or BMP treatment capacity within subwatersheds for each municipal permittee, it does not give further information as to proposed location or other required details.

¹¹ See, Lower San Gabriel River WMP, at 3-35.

¹² Lower Rivers/Channel RAA, at 52.

II. Draft Coordinated Integrated Monitoring Plan

A. Lack of Appropriate Maps

Maps provided in the draft coordinated integrated monitoring plan (“CIMP”) for the Lower San Gabriel River watershed¹³ are insufficient for evaluating the monitoring plan. The Monitoring and Reporting Program requires specific spatial information to be included with submitted CIMPs. (2012 Permit, at E-20). Although Table 10-3 of the CIMP points to maps and database information included with the draft CIMP, many of these elements (*e.g.* land use overlay) are missing from plan submission.¹⁴ CIMP submittal without these necessary elements does not allow for adequate analysis of proposed monitoring locations and does not comply with MS4 Permit requirements.

B. Receiving Water Monitoring

The Lower San Gabriel River CIMP states that “Stormwater outfall sites are intended to ensure representative data by monitoring at least one outfall per major subwatershed (HUC 12) drainage area and assuring that drainage areas for each selected outfall are representative of the land uses within the Permittee’s jurisdiction. The drainage areas of the outfall monitoring sites are representative of a wide variety of land uses within the LLSG including residential, commercial and industrial.”¹⁵ However, compliance with this requirement is not at all clear from the figures and language of the CIMP, and must be substantially enhanced to ensure compliance with Permit requirements.

¹³ Kinetic Laboratories, Incorporated (June 28, 2014) Coordinated Integrated Monitoring Program for Lower San Gabriel Watershed Group (“Lower San Gabriel River CIMP”)

¹⁴ *See*, Lower San Gabriel River CIMP, at 68.

¹⁵ *Id.* at 14.