

ATTACHMENT A
Part 7

Notices of Intent

June 26, 2013

Sam Unger P.E.
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Notice of Intent to Opt for an Individual Watershed Management Program

Dear Mr. Unger:

The **City of Compton** is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

1. develop an Individual Watershed Management Program ("I-WMP") in accordance with Los Angeles Regional Water Quality Control Board Order No. R4-2012-0175, NPDES Permit No., CAS0040, adopted on November 8, 2012 ("Order") and became effective on December 28, 2012, and
2. participate in a Coordinated Integrated Monitoring Plan ("CIMP").

The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. identify applicable interim and final trash water quality based effluent limitations (WQBELs);
2. identify all other interim and final WQBELs;
3. identify interim and final receiving water limitations; and
4. identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. demonstrate that a Low Impact Development (LID) ordinance is in place or that it is in the process of developing one has started within 60 days of the Order (February 26, 2013);
2. Demonstrate that a Green Street Policy is in place or begin development of one that addresses "green street strategies for transportation corridors" within 60 days of the Order.

The attached provides a complete discussion of the NOI-related tasks. The WMP and CIMP shall be submitted to the Regional Board on or before June 28, 2013.

Should you have any questions please feel free to call me at [REDACTED].

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations."

Glen Kau, PE
Director of Public Works

Notice of Intent I. Individual Watershed Management Plan

1. *Rationale for I-WMP*

The **City of Compton** has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQs, based on outfall monitoring against ambient WQs. It is possible that the City has been meeting some or even most WQs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (1) there are no water quality monitoring data that would justify this extreme and costly option; (2) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQs occur²; (3) there is no guarantee that participating in an E-WMP could assure compliance with WQs; (4) there is no current funding mechanism for the E-WMP³; and (5) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQs through the implementation of its stormwater management plan (SWMP) as is provided

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WQs into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSSs. If persistent exceedances of WQSSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL-iterative provision by requiring permittees to meet the WQSSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although Compton is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis.

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Los Angeles River, Reach 1 • Compton Creek 	<ul style="list-style-type: none"> • Compton and Carson • Compton and Carson
<ul style="list-style-type: none"> • Dominguez Channel 	<ul style="list-style-type: none"> • Carson • Compton • Gardena • Lawndale

Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall be achieved.

The WMP and IWMP shall be submitted to the Regional Board on or before June 28, 2014.

2. Water Quality Based Effluent Limitations and Receiving Water Limitations

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQSS, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQSS in the sentence, thereby making it clear that WQSS and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

- i. *Dry and Wet Weather Interim and Final WQBELs for Los Angeles River TMDLs*

Los Angeles River Watershed TMDLs

Wet Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Los Angeles River, Reach 1 and Compton Creek	17 ug/l	62 ug/l	159 ug/l	See Attachment #2
Water Body	Bacteria	-	-	-
Los Angeles River, Reach 1 and Compton Creek	235 MPN/100 ml	-	-	-

Attachment #1: City of Compton I-WMP/CMP Notice of Intent

Water Body	Nutrients ⁴	-	-	-
Los Angeles River Reach 1 and Compton	7.2 mg/l	-	-	-
Dry Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Los Angeles River Reach 1 and Compton Creek	23 ug/l (R 1) 19 ug/l (Compton Creek)	12 ug/l (R 1) 8.9 ug/l (Compton creek)	-	Same As Wet Weather
Water Body	Bacteria (Interim)	Bacteria (Final)	-	-
Los Angeles River Reach 1 and Compton Creek	2 MPN/day	235 MPN/100 ml	-	-

Los Angeles River Watershed TMDLs

Wet Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Los Angeles River, Reach 1 and Compton Creek	17 ug/l	62 ug/l	159 ug/l	See Attachment #2
Water Body	Bacteria	-	-	-
Los Angeles River, Reach 1 and Compton Creek	235 MPN/100 ml	-	-	-
Water Body	Nutrients ⁵	-	-	-
Los Angeles River Reach 1 and Compton Creek	7.2 mg/l	-	-	-
Dry Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Los Angeles River Reach 1 and Compton Creek	23 ug/l (Reach 1) 19 ug/l (Compton Creek)	12 ug/l (Reach 1) 8.9 ug/l (Compton creek)	-	Same As Wet Weather
Water Body	Bacteria (Interim)	Bacteria (Final)	-	-
Los Angeles River Reach 1 and Compton	2 MPN/day	235 MPN/100 ml	-	-

⁴This TMDL does not apply because it is not valid. It is a "reconsideration" of the Los Angeles River Nitrogen and Related Effects TMDL to Incorporate Site-Specific Objectives for Ammonia that was adopted by the Los Angeles Regional Board on December 6, 2012. It has not been approved by the State Water Resources Control Board. Further, this proposed TMDL appears to apply only to waste water treatment facilities, not MS4s.

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Dominguez Channel Watershed TMDLs

i. *Interim and Final WQBELs for Dominguez Toxics TMDL (wet weather only)*⁶

Toxics TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
• Total Lead	122.88 µg/L	March, 2012	5733.7 g/day	March 2032
• Total Zinc	898.87 µg/L	March, 2012	9355.5 g/day	March 2032
• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

ii. *Interim and Final RWLs for Dominguez Toxics TMDL (wet weather only)*⁷

Toxics TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
• Total Lead	122.88 µg/L	March, 2012	5733.7 g/day	March 2032
• Total Zinc	898.87 µg/L	March, 2012	9355.5 g/day	March 2032
• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

3. *Watershed Control Measures*

It is not clear if the MS4 permit requires watershed control measures for the I-WMP option non-TMDL pollutants. Nevertheless, the City's I-WMP shall identify watershed controls measures (WCMs) to be considered for implementation based on monitoring data generated from the CIMP. If persistent exceedances are detected, the I-WMP will be amended to include BMPs tailored to address the exceedances for TMDL or non-TMDL pollutants. The BMPs will be implemented to include one or more of the 6 minimum control measures mandated for MS4s under the Clean Water Act that will be specific to the TMDL.

Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. *Demonstration of a Low Impact Development Ordinance*

⁶Dominguez Channel freshwater allocations are set for wet weather only because no dry weather exceedances were recorded.

⁷See footnote 4 above.

The City has begun development of the LID ordinance to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁸ and is applicable to 10,000 square feet or more of impervious surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be

⁸MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQs; (2) determine to what extent MS4 permittees are meeting or not meeting WQs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.⁹ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

Ambient water quality monitoring is generally understood to mean collecting water quality samples during dry weather either during the dry season or during the wet season following a storm event. This has been confirmed by the Regional Board's SWAMP. SWAMP indicated that initially it performed ambient monitoring between 48 and 72 hours after a storm event. It later chose to conduct ambient during the spring and summer because there was no significant difference between the two sampling periods.

Measuring outfall discharges against wet weather WLAs is not required under federal or state law.¹⁰ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

END SECTION II

⁹It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

¹⁰See State Water Resources Control Board Order WQ 2001-15, page 10-11.



Jesus M. Gomez
Acting City Manager

CITY OF EL MONTE

CITY MANAGER'S OFFICE

June 26, 2013

Mr. Samuel Unger, P.E., Executive Officer
California Regional Water Quality
Control Board – Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

**RE: LETTER OF INTENT – CITY OF EL MONTE
WATERSHED MANAGEMENT PROGRAM AND
COORDINATED INTEGRATED MONITORING PROGRAM**

Dear Mr. Unger:

The City of El Monte submits this Letter of Intent to notify the Los Angeles Regional Water Quality Control Board of our commitment to develop a Watershed Management Program (WMP) and a Coordinated Integrated Monitoring Program (CIMP) for the tributary San Gabriel River and Los Angeles River Watersheds. This Letter of Intent serves to satisfy the notification requirements of Section VI.C.4.b of Order No. R4-2012-0175 (Municipal Separate Storm Sewer System Permit).

The City of El Monte meets the LID and Green Street conditions and will submit the draft WMP and CIMP within 18 months of the effective date of the Order (June 28, 2014).

The following table lists Total Maximum Daily Loads (TMDLs) for the tributary receiving waters in the Los Angeles and San Gabriel River Watersheds. Other than the Los Angeles River Watershed Water Quality-Based Effluent Limitations (WQBELs) listed, there are no interim and/or final WQBEL deadlines occurring prior to the anticipated approval date of the WMP in the San Gabriel River Watershed.

If you have any questions, please contact Michelle Marquez-Riley, P.E., Contract City Engineer, at (626) 580-2051.

Very truly yours,

JESUS M. GOMEZ
Acting City Manager

ATTACHMENT 1

2013 JUN 28 AM 10:16
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CITY OF EL MONTE

ATTACHMENT 1

TMDL	WQBELs	Interim/Final
Los Angeles River Watershed - Trash	20% of baseline by 2013 10% of baseline by 2014	Interim
Los Angeles River Watershed – Nitrogen Compounds and related Effects	NH ₃ -N 8.7 mg/L 1-hour avg 2.4 mg/L 30-day avg NO ₃ -N = 8 mg/L 30-day avg NO ₂ -N = 1 mg/L 30-day avg NO ₃ -N+NO ₂ -N = 8 mg/L 30-day avg	Final
Los Angeles River Reach 2 - Metals	Copper 50% of WERx0.13 (kg/day) ¹ , dry weather 25% of WERx1.5x10 ⁻⁸ x daily volume (L) - 9.5 (kg/day), wet weather Lead 50% of WERx0.07 (kg/day) ¹ dry weather 25% of WERx5.6x10 ⁻⁸ x daily volume (L) – 3.85 (kg/day), wet weather Cadmium 25% of WERx2.8x10 ⁻⁸ x daily volume (L) – 1.8 (kg/day), wet weather Zinc 25% of WERx1.4x10 ⁻⁷ x daily volume (L) – 83 (kg/day), wet weather	Interim
Los Angeles River Watershed - Bacteria	E coli Load = 2 (10 ⁹ MPN/Day)	Interim
Legg Lake - Trash	March 6, 2013 = 40% March 6, 2014 = 60% Drainage Area covered by Full Capture Sys- tems	Interim
San Gabriel River and im- paired Tributaries – Metals and Selenium	N/A	N/A
¹ Alternative concentration-based water quality-based effluent limitations available		



CITY of GARDENA

1700 WEST 162ND STREET / GARDENA, CALIFORNIA 90247-3778 / PHONE (310) 217-9500
WEB SITE: www.ci.gardena.ca.us

PAUL K. TANAKA, *Mayor*
DAN MEDINA, *Mayor Pro Tem*
TASHA CERDA, *Councilmember*
RACHEL C. JOHNSON, *Councilmember*
TERRENCE TERAUCHI, *Councilmember*

MINA SEMENZA, *City Clerk*
J. INGRID TSUKIYAMA, *City Treasurer*
MITCHELL G. LANSDELL, *City Manager*
PETER L. WALLIN, *City Attorney*

June 27, 2013

Sam Unger P.E.
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Notice of Intent to Opt for an Individual Watershed Management Program

Dear Mr. Unger:

The **City of Gardena** is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

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The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. Identify applicable interim and final trash water quality based effluent limitations (WQBELs).
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4. Identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. Demonstrate that a Low Impact Development (LID) ordinance is in place or begin development of one within 60 days of the Order (February 26, 2013);
2. Demonstrate that a Green Street Policy is in place or begin development of one that addresses "green street strategies for transportation corridors" within 60 days of the Order.

The attached provides a complete discussion of the NOI-related tasks.

Should you have any questions please feel free to call John Felix of my staff at (310) 217-9643, email, jfelix@ci.gardena.ca.us.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations."

Sincerely,



Mitchell Lansdell

City Manager

Notice of Intent I. Individual Water Management Plan

1. *Rationale for I-WMP*

The City of Gardena (City) has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQs, based on outfall monitoring against ambient WQs. It is possible that the City has been meeting some or even most WQs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
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- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQs through the implementation of its stormwater management plan (SWMP) as is provided

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²The MS4 permit asserts that the E-WMP provides compliance with WQs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WSS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the E-WMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority to change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Act Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSs. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an "iterative process." However, the MS4 permit appears to over-ride the RWL provision by requiring permittees to meet the WQSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although Gardena is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis:

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Dominguez Channel (unlined portion above Vermont) 	<ul style="list-style-type: none"> • City of Gardena • Lawndale
<ul style="list-style-type: none"> • Dominguez Channel (unlined portion below Vermont) 	<ul style="list-style-type: none"> • City of Compton • City of Carson

Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall result in de facto terms.

2. Water Quality Based Effluent Limitations and Receiving Water Limitations

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control

plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQs in the sentence, thereby making it clear that WQs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is a clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

i. *Interim and Final WQBELs for Dominguez Toxics TMDL (wet weather only)⁴ Applicable to the City of Gardena*

Toxics/Metals TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final Interim	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
• Total Lead	122.88 µg/L	March, 2012	5733.7 g/day	March 2032
• Total Zinc	898.87 µg/L	March, 2012	9355.5 g/day	March 2032
• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

ii. *Interim and Final RWLs for Dominguez Toxics TMDL (wet weather only)⁵ Applicable to the City of Gardena*

Toxics/Metals TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final Interim	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
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⁴Dominguez Channel freshwater allocations are set for wet weather only because no dry weather exceedances were recorded.

⁵See footnote 4 above.

Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. *Demonstration of an Low Impact Development Ordinance*

The City has begun development of the LID order to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁶ and is applicable to 10,000 square feet or more of impervious surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in

⁶MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQSSs; (2) determine to what extent MS4 permittees are meeting or not meeting WQSSs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.⁷ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

Ambient water quality monitoring is generally understood to mean collecting water quality samples during dry weather either during the dry season or during the wet season following a storm event. This has been confirmed by the Regional Board's SWAMP. SWAMP indicated that initially it performed ambient monitoring between 48 and 72 hours after a storm event. It later chose to conduct ambient during the spring and summer because there was no significant difference between the two sampling periods.

Measuring outfall discharges against wet weather WLAs is not required under federal or state law.⁸ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

END SECTION II

⁷It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

⁸See State Water Resources Control Board Order WQ 2001-15, page 10-11.

Notice of Intent I. Individual Watershed Management Plan

1. Rationale for I-WMP

The **City of Gardena** (City) has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQSs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSs, based on outfall monitoring against ambient WQSs. It is possible that the City has been meeting some or even most WQSs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (1) there are no water quality monitoring data that would justify this extreme and costly option; (2) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQSs occur²; (3) there is no guarantee that participating in an E-WMP could assure compliance with WQSs; (4) there is no current funding mechanism for the E-WMP³; and (5) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQSs through the implementation of its stormwater management plan (SWMP) as is provided

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQSs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WQS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQSs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQSs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSS. If persistent exceedances of WQSS are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL provision by requiring permittees to meet the WQSS by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although Gardena is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis:

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Dominguez Channel (unlined portion above Vermont) 	<ul style="list-style-type: none"> • City of Gardena • Lawndale
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Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall be achieved.

The I-WMP and CIMP shall be submitted to the Regional Board on or before June 28, 2014.

2. *Water Quality Based Effluent Limitations and Receiving Water Limitations*

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQs in the sentence, thereby making it clear that WQs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

i. *Interim and Final WQBELs for Dominguez Toxics TMDL (wet weather only)⁴
Applicable to the City of Gardena*

Toxics/Metals TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
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• Total Zinc	898.87 µg/L	March, 2012	9355.5 g/day	March 2032
• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

ii. *Interim and Final RWLs for Dominguez Toxics TMDL (wet weather only)⁵
Applicable to the City of Gardena*

Toxics/Metals TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
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⁵See footnote 4 above.

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Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. *Demonstration of a Low Impact Development Ordinance*

The City has begun development of the LID ordinance to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

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⁶MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQs; (2) determine to what extent MS4 permittees are meeting or not meeting WQs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.⁷ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

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Measuring outfall discharges against wet weather WLAs is not required under federal or state law.⁸ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

END SECTION II

⁷ It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

⁸ See State Water Resources Control Board Order WQ 2001-15, page 10-11.



June 25, 2013

Sam Unger P.E.
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Notice of Intent to Opt for an Individual Watershed Management Program

Dear Mr. Unger:

The City of Irwindale is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

1. develop an Individual Watershed Management Program ("I-WMP") in accordance with Los Angeles Regional Water Quality Control Board Order No. R4-2012-0175, NPDES Permit No., CAS0040, adopted on November 8, 2012, ("Order") and became effective on December 28, 2012, and
2. participate in a Coordinated Integrated Monitoring Plan ("CIMP").

The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. identify applicable interim and final trash water quality based effluent limitations (WQBELs);
2. identify all other interim and final WQBELs;
3. identify interim and final receiving water limitations; and
4. identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. demonstrate that a Low Impact Development (LID) ordinance is in place or the process of developing one has started within 60 days of the Order (February 26, 2013);



2. Demonstrate that a Green Street Policy is in place or begin development of one that addresses "green street strategies for transportation corridors" within 60 days of the Order.

The attached provides a complete discussion of the NOI-related tasks. The City shall submit to the Regional Board the I-WMP and CIMP on or before June 28, 2014.

Should you have any questions please feel free to call me at (626) 579-6540.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations."



William K. Tam, PE
Public Works Director/City Engineer

Notice of Intent I. Individual Watershed Management Plan

1. Rationale for I-WMP

The **City of Irwindale** has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQSs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSs, based on outfall monitoring against ambient WQSs. It is possible that the City has been meeting some or even most WQSs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (1) there are no water quality monitoring data that would justify this extreme and costly option; (2) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQSs occur²; (3) there is no guarantee that participating in an E-WMP could assure compliance with WQSs; (4) there is no current funding mechanism for the E-WMP³; and (5) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQSs through the implementation of its stormwater management plan (SWMP) as is provided

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQSs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WQS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQSs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQSs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSs. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL-iterative provision by requiring permittees to meet the WQSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although Irwindale is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis.

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Reach 2, Rio Hondo (tributary to Los Angeles River) 	<ul style="list-style-type: none"> • El Monte • South El Monte

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • San Gabriel River⁴ 	<ul style="list-style-type: none"> • El Monte (Reach 3) • Glendora (Reach 5 and Walnut Creek) • West Covina (Walnut Creek and San Jose Creek, Reach 1) • Walnut (Walnut Creek and San Jose Creek, Reach 1)

Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall be achieved.

The City shall submit to the Regional Board the I-WMP and CIMP on or before June 28, 2014.

2. Water Quality Based Effluent Limitations and Receiving Water Limitations

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a

⁴Note: The TMDLs for reaches and segments within the San Gabriel River Metals TMDL (currently a USEPA TMDL) extends metals TMDLs (copper, lead, zinc, and selenium) to all permittees that drain into this watershed, regardless of whether a permittee is located within the impaired reach as determined by the State’s 303(d) list. For example, Irwindale, which drains to Reach 3 of the San Gabriel River, which is not impaired, is nevertheless subject to TMDLs for zinc, copper, and lead according to the MS4.

definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQs in the sentence, thereby making it clear that WQs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is a clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

- i. *Dry and Wet Weather Interim and Final WQBELs for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo)*

Los Angeles River Watershed TMDLs

Wet Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo ⁵	17 ug/l	62 ug/l	159 ug/l	See Attachment #2

⁵The State's 303(d) list does not show Reach 2 of the Rio Hondo as being impaired by any metal or for trash.

Water Body	Bacteria	-	-	-
Reach 2 Rio Hondo	235 MPN/100 ml	-	-	-
Water Body	Nutrients ⁶	-	-	-
Reach 2 Rio Hondo	7.2 mg/l	-	-	-
Dry Weather WLAs				
Water Body ⁷	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo ⁸	N/A	N/A	N/A	Same As Wet Weather
Water Body	Bacteria (Interim)	Bacteria (Final)	-	-
Reach 2 Rio Hondo	2 MPN/day	235 MPN/100 ml	-	-

ii. *Dry and Wet Weather Interim and Final RWLs for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo)*

Same as above under (i).

iii. *Dry and Wet Weather Interim and Final WQBELs for San Gabriel River-Related TMDLs (Reaches 4 and 5)*

As mentioned above, the City cannot identify wet weather interim and final WQBELs because of the uncertainty of what a WQBEL means. There is no definition of a wet weather or dry weather WQBEL anywhere in federal law or USEPA guidance. There is also no definition in Attachment A of the Order. It only explains it as acronym, which stands for a “water quality based effluent limitation.” It has been suggested that a WQBEL is the same as a WLA. The City disagrees with this interpretation. A WQBEL is a means of attaining a WLA, generally expressed as BMPs. Complicating matters is that the SGR M-TMDL is a USEPA TMDL, which only requires WQBEL-BMPs to achieve compliance with TMDL WLAs. WQBELs, within the context of this TMDL, translate WLAs into BMPs, rendering a clear definition that does not exist in the Order.

Further complicating matters is that USEPA TMDLs do not define WQBELs to mean the same as WLAs. Instead, as noted in the current MS4 permit, USEPA TMDLs interpret WQBELs to mean BMPs. Until the SGR M-TMDL is adopted as

⁶This TMDL does not apply because it is not valid. It is a “reconsideration” of the Los Angeles River Nitrogen and Related Effects TMDL to Incorporate Site-Specific Objectives for Ammonia that was adopted by the Los Angeles Regional Board on December 6, 2012. It has not been approved by the State Water Resources Control Board. Further, this proposed TMDL appears to apply only to waste water treatment facilities, not MS4s.

⁷According to the 2010 303(d) list Reach 2 of the Rio Hondo is not listed for metals.

⁸According to Regional Board TMDL staff there is no dry weather allocation for any metal for Rio Hondo, Reach 2 (letter from Jenny Newman to Darrell George, City Manager, City of Duarte, dated June 8, 2009).

State TMDL, which must go through a basin plan amendment process, the City will rely on USEPA's definition of a WQBEL. In any case, dry and wet WLAs are numeric targets established for USEPA's SGR M-TMDLs. They are listed in the table below.

San Gabriel River Watershed TMDLs

Wet Weather WLA			
Water Body	Copper	Lead	Zinc
San Gabriel River Reach 2 ⁹	N/A	81.34 mg/l x daily storm volume (L)	N/A
Coyote Creek ¹⁰	24.71 mg/l x daily storm volume (L)	96.99 mg/l x daily storm volume (L)	144.57 mg/l x daily storm volume (L)
Dry Weather			
Water Body	Copper	Selenium	
Coyote Creek	20 mg/l	N/A	N/A
San Gabriel Estuary ¹¹	3.7 mg/l	N/A	N/A
San Jose Creek Reach 1	NA	5 mg/l	N/A

According to the San Gabriel River Metals TMDL (SGR-MTMDL), which is currently a USEPA TMDL, all permittees located in the San Gabriel River watershed are subject to waste load allocations (WLAs) for copper, zinc, lead, and selenium as following excerpt from it indicates:

Wet-weather allocations will be developed for all upstream reaches and tributaries in the watershed that drain to impaired reaches during wet weather.¹² Discharges to these upstream reaches can cause or contribute to exceedances of water quality standards in San Gabriel River Reach 2 and Coyote Creek and thus contribute to impairments.

However, the City is of the view that it should not be subject to any of the SGR M-TMDLs. Table 7-1 of the TMDL lists **Irwindale** as being located in Reach 3 of the SGR, which is not impaired. Irwindale occupies Reaches 4 and 5 of the SGR, which are not impaired for any metal according to the 2010 303(d) list.

In spite of this, Regional Board staff has concluded that the City is subject to all of the M-TMDLs because of the tributary rule. The tributary rule does not apply here,

⁹The City does not drain into Reach 2 of the San Gabriel River.

¹⁰According to the 2010 303(d) list relating to Coyote Creek: (1) the source of dissolved copper is "unknown;" (2) the source of lead is "point source municipal waste water; and (3) zinc has been delisted.

¹¹According to the 2010 303(d) list, the source of dissolved copper for the San Gabriel River Estuary is unknown.

¹²This assertion contradicts State Board Water Quality Order 2001-15, which held: *There is no provision in state or federal law that mandates the adoption of separate water quality standards for wet weather conditions (see page 10).*

however. It only operates to extend a beneficial use within a reach to an unidentified water body such as a stream or a lake. It cannot extend a beneficial use to an outside reach for which that same use does not exist. For example, the beneficial use of Reach 2 of the Rio Hondo is ground water recharge. It obviously cannot apply the same use to an upstream or downstream reach, even though the reaches are tributary to it. And, in any case, a beneficial use and a water quality standard are two separate issues. A water quality standard is intended to protect a beneficial use. If that standard is not sufficient, based on monitoring, then a TMDL would be required.

iv. Dry and Wet Weather Interim and Final Receiving Water Limitations for San Gabriel River-Related TMDLs

See paragraph (ii) above.

3. Watershed Control Measures

It is not clear if the MS4 permit requires watershed control measures for the I-WMP option non-TMDL pollutants. Nevertheless, the City's I-WMP shall identify watershed controls measures (WCMs) to be considered for implementation based on monitoring data generated from the CIMP. If persistent exceedances are detected, the I-WMP will be amended to include BMPs tailored to address the exceedances for TMDL or non-TMDL pollutants. The BMPs will be implemented to include one or more of the 6 minimum control measures mandated for MS4s under the Clean Water Act that will be specific to the TMDL.

Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. Demonstration of a Low Impact Development Ordinance

The City has begun development of the LID ordinance to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code

language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable¹³ and is applicable to 10,000 square feet or more of impervious surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use

¹³MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQs; (2) determine to what extent MS4 permittees are meeting or not meeting WQs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.¹⁴ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

Ambient water quality monitoring is generally understood to mean collecting water quality samples during dry weather either during the dry season or during the wet season following a storm event. This has been confirmed by the Regional Board's SWAMP. SWAMP indicated that initially it performed ambient monitoring between 48 and 72 hours after a storm event. It later chose to conduct ambient during the spring and summer because there was no significant difference between the two sampling periods.

Measuring outfall discharges against wet weather WLAs is not required under federal or state law.¹⁵ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

¹⁴It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

¹⁵See State Water Resources Control Board Order WQ 2001-15, page 10-11.

END SECTION II



CITY OF LA HABRA HEIGHTS

1245 N. Hacienda Road
La Habra Heights, CA 90631
(562) 694-6302
www.lhhcity.org

July 22, 2013

Ivar Ridgeway
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles CA 90013

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CITY OF LA HABRA HEIGHTS

Mr. Ridgeway:

I write to provide notice that the City of La Habra Heights intends to complete an individual Watershed Management Program under the terms of NPDES Permit No. CAS004001, adopted by Order No. R4-2012-0175 of the Los Angeles Regional Water Quality Control Board. The City requests a 12-month submittal date for review by the Board of the draft Watershed Management Program under Part VI.C.4.c.iii.

The City is subject to the San Gabriel River and Impaired Tributaries Metals and Selenium TMDL for the San Jose Creek and Coyote Creek reaches. The City is thus subject to the following waste load allocations listed for San Jose Creek for selenium (5 µg/L in dry weather) and for Coyote Creek for copper (24.71 µg/L x daily storm volume in L in wet weather), lead (96.99 µg/L x daily storm volume in L in wet weather), and zinc (144.57 µg/L x daily storm volume in L in wet weather) in Attachment P to the Permit. While developing its Watershed Management Program, the City will continue to implement its existing control measures required under this TMDL.

In addition to myself, please copy Dave Nichols, Public Works Manager and Holly Whatley, City Attorney, on all future correspondence regarding the NPDES Permit and the City's Watershed Management Program.

Sincerely,


Shauna Clark
City Manager

cc: Dave Nichols, Public Works Director (dnichols@lhhcity.org)
Holly O. Whatley, City Attorney (hwhatley@cllaw.us)



June 25, 2013

Sam Unger, P.E.
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Notice of Intent – Individual Watershed Management Program

Dear Mr. Unger:

The **City of Lawndale** is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

1. develop an Individual Watershed Management Program ("I-WMP") in accordance with Los Angeles Regional Water Quality Control Board Order No. R4-2012-0175, NPDES Permit No., CAS0040, adopted on November 8, 2012 ("Order") and became effective on December 28, 2012, and
2. participate in a Coordinated Integrated Monitoring Plan ("CIMP").

The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. identify applicable interim and final trash water quality based effluent limitations (WQBELs);
2. identify all other interim and final WQBELs;
3. identify interim and final receiving water limitations; and
4. identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. demonstrate that a Low Impact Development (LID) ordinance is in place or that it is in the process of developing one has started within 60 days of the Order (February 26, 2013);
2. Demonstrate that a Green Street Policy is in place or begin development of one that addresses "green street strategies for transportation corridors" within 60 days of the Order.

The attached provides a complete discussion of the NOI-related tasks.

In case of questions please feel free to contact me at (310) 973-3266 or Nabbaszadeh@lawndalecity.org

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations."



Nasser Abbaszadeh, PE
Public Works Director/City Engineer

Attachment

Notice of Intent I. Individual Watershed Management Plan

1. *Rationale for I-WMP*

The **City of Lawndale** has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQSS") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSS, based on outfall monitoring against ambient WQSS. It is possible that the City has been meeting some or even most WQSS. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (1) there are no water quality monitoring data that would justify this extreme and costly option; (2) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQSS occur²; (3) there is no guarantee that participating in an E-WMP could assure compliance with WQSS; (4) there is no current funding mechanism for the E-WMP³; and (5) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQSS through the implementation of its stormwater management plan (SWMP) as is provided

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQSS and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WQS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQSS over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQSS, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSs. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL provision by requiring permittees to meet the WQSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although Lawndale is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis.

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Dominguez Channel (unlined portion above Vermont) 	<ul style="list-style-type: none"> • City of Lawndale • City of Gardena
<ul style="list-style-type: none"> • Dominguez Channel (unlined portion below Vermont) 	<ul style="list-style-type: none"> • City of Compton • City of Carson

Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development will be achieved.

The I-WMP and CIMP shall be submitted to the Regional Board no later than June 28, 2014.

2. *Water Quality Based Effluent Limitations and Receiving Water Limitations*

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQSs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQSs in the sentence, thereby making it clear that WQSs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

As we understand it, RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

i. *Interim and Final WQBELs for Dominguez Toxics TMDL (wet weather only)⁴
Applicable to the City of Lawndale*

Toxics TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
• Total Lead	122.88 µg/L	March, 2012	5733.7 g/day	March 2032
• Total Zinc	898.87 µg/L	March, 2012	9355.5 g/day	March 2032
• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

ii. *Interim and Final RWLs for Dominguez Toxics TMDL (wet weather only)⁵
Applicable to the City of Lawndale*

Toxics TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Copper	207.51 µg/L	March, 2012	1300.3 g/day	March 2032
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• Toxicity	2 TUc	March, 2012	1 TUc	March 2032

⁴Dominguez Channel freshwater allocations are set for wet weather only because no dry weather exceedances were recorded.

⁵See footnote 4 above.

3. *Watershed Control Measures*

It is not clear if the MS4 permit requires watershed control measures for the I-WMP option non-TMDL pollutants. Nevertheless, the City's I-WMP shall identify watershed controls measures (WCMs) to be considered for implementation based on monitoring data generated from the CIMP. If persistent exceedances are detected, the I-WMP will be amended to include BMPs tailored to address the exceedances for TMDL or non-TMDL pollutants. The BMPs will be implemented to include one or more of the 6 minimum control measures mandated for MS4s under the Clean Water Act that will be specific to the TMDL.

Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. *Demonstration of a Low Impact Development Ordinance*

The City has begun development of the LID ordinance to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-

833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, ... and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁶ and is applicable to 10,000 square feet or more of impervious surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

⁶MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQSSs; (2) determine to what extent MS4 permittees are meeting or not meeting WQSSs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.⁷ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It does not seem, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

Ambient water quality monitoring is generally understood to mean collecting water quality samples during dry weather either during the dry season or during the wet season following a storm event. This has been confirmed by the Regional Board's SWAMP. SWAMP indicated that initially it performed ambient monitoring between 48 and 72 hours after a storm event. It later chose to conduct ambient during the spring and summer because there was no significant difference between the two sampling periods.

Measuring outfall discharges against wet weather WLAs is not required under federal or state law.⁸ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purpose of reference and comparison rather than compliance.

END SECTION II

⁷It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

⁸See State Water Resources Control Board Order WQ 2001-15, page 10-11.

Notice of Intent I. Individual Watershed Management Plan

1. *Rationale for I-WMP*

The **City of Lomita** has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQs, based on outfall monitoring against ambient WQs. It is possible that the City has been meeting some or even most WQs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (i) there are no water quality monitoring data that would justify this extreme and costly option; (ii) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQs occur;² (iii) there is no guarantee that participating in an E-WMP could assure compliance with WQs; (iv) there is no current funding mechanism for the E-WMP;³ and (v) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WSS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

meet WQSs through the implementation of its stormwater management plan (SWMP) as is provided under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSs. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL provision by requiring permittees to meet the WQSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved.

Although **Lomita** is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis:

Watershed/Sub-watershed	Other Participating MS4s
<ul style="list-style-type: none"> • Machado Lake 	<ul style="list-style-type: none"> • City of Carson

Carson and Lomita will be responsible for preparing their own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall be achieved.

The I-WMP and CIMP shall be submitted to the Regional Board on or before June 28, 2014.

2. Water Quality Based Effluent Limitations and Receiving Water Limitations

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. It should be noted that there is no legal definition of a wet weather or dry weather interim or final WQBEL or RWL.

i. Dry and Wet Weather Interim and Final WQBELs for Trash

The City is subject to the Machado Lake Trash TMDLs. A trash WQBEL is a BMP that includes the implementation of institutional and/or structural controls (viz., debris screens or vortex separation systems). Implementation of either option in accordance with the TMDL’s requirements places a permittee in compliance with “scheduled” WLA targets. The final WLA is zero. The zero WLA is achieved by, for example, installing debris screens in all catch basins that are

hydrologically connected to a water body that is subject to the trash TMDL. In actual terms, debris screens and vortex separation systems are only capable of reducing trash by 80-85%. It should be noted that the TMDLs do not reference an interim WLA, only a final WLA. Further, this TMDL does not reference the term WQBELs as applicable to outfalls as WLAs. Still, it must be assumed they are the same.

Furthermore, according to the 2010 303(d) List, trash is not listed for Machado Lake. It is clear where the Regional Board has obtained its legal authority to assign any kind of allocation to a pollutant that has not been placed on both the 303(d) and 2010 lists.

TMDL	Dry Weather Interim WLA	Wet Weather Final WLA
Machado Lake Trash (see attachment #2)	zero	zero

ii. *Dry and Wet Weather Interim and Final Trash RWLs*

As is the case for dry and wet weather interim and final WQBELs, there is no reference to dry and wet weather interim and final RWL in federal law or USEPA guidance. And, there is no definition of an interim or final wet or dry weather RWL in attachment “A” of the Order. However, the Order here does define a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should have only referenced WQSs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQSs in the sentence, thereby making it clear that WQSs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream

measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

iii. *Interim and Final WQBELS for Machado Lake Nutrients TMDL (dry and wet weather)*

Nutrients TMDL	Dry Weather Interim WLA	Deadline	Dry Weather Final WLA	Deadline
• Total Phosphorous	1.25 mg/l	May, 2014	0.1 mg/l	September, 2018
• Total Nitrogen	2.45 mg/l	May, 2014	1.0 mg/l	September, 2018

Nutrients TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total Phosphorous	1.25 mg/l	May, 2014	0.1 mg/l	September, 2018
• Total Nitrogen	2.45 mg/l	May, 2014	1.0 mg/l	September, 2018

iv. *Interim and Final RWLs for Machado Lake Nutrients TMDL (dry and wet weather)*

Nutrients TMDL	Dry Weather Interim WLA	Deadline	Dry Weather Final WLA	Deadline
• Total Phosphorous	1.25 mg/l	May, 2014	0.1 mg/l	September, 2018
• Total Nitrogen	2.45 mg/l	May, 2014	1.0 mg/l	September, 2018

Nutrients TMDL	Dry Weather Interim WLA	Deadline	Dry Weather Final WLA	Deadline
• Total Phosphorous	1.25 mg/l	May, 2014	0.1 mg/l	September, 2018
• Total Nitrogen	2.45 mg/l	May, 2014	1.0 mg/l	September, 2018

v. *Interim and Final WQBELS for Machado Lake Toxics TMDL (dry and wet weather)*

Toxics TMDL	Dry Weather Interim WLA	Deadline	Dry Weather Final WLA	Deadline
• Total PCBs	59.9 ug/kg	September, 2019	59.9 ug/kg	September, 2019
• Total DDT	5.2 ug/kg	September, 2019	5.2 ug/kg	September, 2019
• Dieldrin	1.9 ug/kg	September, 2019	1.9 ug/kg	September, 2019
• Chlordane	3.24 µg/kg	September, 2019	3.4 ug/kg	September, 2019

Toxics TMDL	Wet Weather Interim WLA	Deadline	Wet Weather Final WLA	Deadline
• Total PCBs	59.9 ug/kg	September, 2019	59.9 ug/kg	September, 2019
• Total DDT	5.2 ug/kg	September, 2019	5.2 ug/kg	September, 2019
• Dieldrin	1.9 ug/kg	September, 2019	1.9 ug/kg	September, 2019
• Chlordane	3.24 µg/kg	September, 2019	3.24 ug/kg	September, 2019

vi. *Interim and Final RWLS for Machado Lake Toxics TMDL (dry and wet weather)*

Toxics TMDL	Dry Weather Interim WLA	Deadline	Dry Weather Final WLA	Deadline
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3. *Watershed Control Measures*

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Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically,

it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

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maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

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END SECTION I

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It should be noted that the City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.⁵ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

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Measuring outfall discharges against wet weather WLAs is not required under federal or state law.⁶ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

END SECTION II

⁵It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

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City of San Fernando Individual Watershed Management Program

The City of San Fernando is in the process of developing an Individual Watershed Management Program and in participating in a Coordinated Integrated Monitoring Program. The submittals pertaining to the City of San Fernando's Individual Watershed Management Program are below:

- » [Notice of Intent](#)
- » [Los Angeles River Trash TMDL Implementation Schedule](#)

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the authority of the California Environmental Protection Agency
[Cal/EPA](#) | [ARB](#) | [DPR](#) | [DTSC](#) | [OEHHA](#) | [SWRCB](#)



CITY OF SOUTH EL MONTE

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VIA ELECTRONIC MAIL

June 27, 2013

Samuel Unger, Executive Director
Regional Water Quality Control Board, Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, California 90013
losangeles@waterboards.ca.gov

Subject: Notice of Intent to Develop an Individual Watershed Management Plan

Dear Mr. Unger:

The City of South El Monte is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

1. Develop an Individual Watershed Management Plan ("I-WMP") in accordance with Los Angeles Regional Water Quality Control Board Order No. R4-2012-0175, NPDES Permit No., CAS0040, adopted on November 8, 2012 ("Permit") and became effective on December 28, 2012, and
2. Participate in a Coordinated Integrated Monitoring Plan ("CIMP");
3. Deliver drafts of the I-WMP and CIMP to the Regional Board on or before June 28, 2014.

The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. Identify applicable interim and final trash water quality based effluent limitations (WQBELs);
2. Identify all other interim and final WQBELs;
3. Identify interim and final receiving water limitations; and

4. Identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

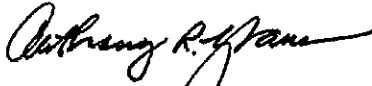
In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. Demonstrate that a draft Low Impact Development (LID) Ordinance is in place;
2. Demonstrate that a draft Green Street Policy is in place.

The Attachment provides a complete discussion of the NOI-related tasks. The City hereby reserves all its legal and equitable rights to challenge the Permit and the associated TMDLs, and nothing herein should be construed as acceptance or acquiescence to any terms or requirements of the Permit or TMDLs the City believes to be legally or technically deficient.

Should you have any questions please feel free to call me at (626) 579-6540 or email me at aybarra@soelmonte.org.

Sincerely,



Anthony R. Ybarra
City Manager
City of South El Monte

Enclosure(s)

cc:

Renee Purdy, California Regional Water Quality Control Board, Los Angeles Region (via electronic mail);
Rebecca Christmann, California Regional Water Quality Control Board, Los Angeles Region (via electronic mail);
Quinn M. Barrow (via electronic mail);
Ray Tahir (via electronic mail);
Andrew J. Brady (via electronic mail).

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

i. *Notice of Intent to Develop I-WMP and CIMP*

The **City of South El Monte** ("City") has chosen to develop its own Individual Watershed Management Plan ("I-WMP") to meet TMDL and non-water quality standards (referred to collectively as "WQSS") for several reasons including but not limited to the following:

1. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSSs, based outfall monitoring against ambient WQSSs. It is possible that the City has been meeting some or even most WQSSs. If outfall monitoring shows persistent exceedances, the I-WMP will contain a mechanism for addressing it.
2. If persistent exceedances of WQSSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an "iterative process."
3. The City will submit its I-WMP on or before June 28, 2014.

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQSSs; (2) determine to what extent MS4 permittees are meeting or not meeting WQSSs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location. The City's CIMP will be submitted at the same time as its I-WMP, on or before June 28, 2014.

Although **South El Monte** is opting for an I-WMP and CIMP, it will work in cooperation with the following permittees on a watershed basis:

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Reach 2, Rio Hondo (tributary to Los Angeles River) 	<ul style="list-style-type: none"> • El Monte • Irwindale

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • San Gabriel River 	<ul style="list-style-type: none"> • El Monte (reach 3) • Glendora (reach 5 and Walnut Creek) • Irwindale (reach 4 and 5) • West Covina (Walnut Creek and San Jose Creek, Reach 1) • Walnut (Walnut Creek and San Jose)

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

	Creek, Reach 1)
--	-----------------

Each of these cities will be responsible for preparing its own individual WMP and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development will likely result in common terms.

- ii. *Dry and Wet Weather Interim and Final WQBELs for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo and Legg Lake)*

Los Angeles River Watershed TMDLs

Wet Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo ¹	17 ug/l	62 ug/l	159 ug/l	See Attachment #2
Water Body	Bacteria			
Reach 2 Rio Hondo	235 MPN/100 ml	-	-	-
Water Body	Nutrients			
Reach 2 Rio Hondo	7.2 mg/l	-	-	-
Water Body	Nutrients Total Nitrogen	Nutrients Total Phosphate		
Legg Lake	1394.8 lb/yr	498.7 lb/yr	-	See Attachment #2
Dry Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo	13 ug/l	5 ug/l	131 ug/l	Same As Wet Weather
Water Body	Bacteria (Interim)	Bacteria (Final)		
Reach 2 Rio Hondo	2 MPN/day	235 MPN/100 ml	-	-
Water Body	Nutrients Total Nitrogen	Nutrients Total Phosphate		
Legg Lake	1394.8 lb/yr	498.7 lb/yr		See Attachment #2

¹The State's 303(d) list does not show Reach 2 of the Rio Hondo as being impaired for metal or trash.

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

iii. *Dry and Wet Weather Interim and Final Receiving Water Limitations for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo and Legg Lake)*

As is the case for dry and wet weather interim and final WQBELs, there is no reference to dry and wet weather interim and final receiving water limitations (RWLs) in federal law or USEPA guidance. And, there is no definition of an interim or final wet or dry weather RWL in attachment "A" of the Order. However, the Order here does define a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

The foregoing definition is incorrect to the extent that it is limited only to water quality objectives (WQOs), which are State standards. The definition should have only referenced WQSSs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQSSs in the sentence, thereby making it clear that both WQSSs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL because it is a federal construct.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

iv. *Dry and Wet Weather Interim and Final WQBELs for San Gabriel River-Related TMDLs*

The City cannot identify wet weather interim and final WQBELs because of the uncertainty of what a WQBEL means. There is no definition of a wet weather or dry weather WQBEL anywhere in federal law or USEPA guidance. There is also no definition in Attachment A of the Order. It only explains it as acronym, which stands for a "water quality based effluent limitation." It has been suggested that a WQBEL is the same as a WLA. The City disagrees with this interpretation. A WQBEL is a means of attaining a WLA, generally expressed as BMPs. Complicating matters is that the SGR M-TMDL is a USEPA TMDL, which only

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

requires WQBEL-BMPs to achieve compliance with TMDL WLAs. WQBELs, within the context of this TMDL, translate WLAs into BMPs, rendering a clear definition that does not exist in the Order.

Further complicating matters is that USEPA TMDLs do not define WQBELs to mean the same as WLAs. Instead, as noted in the current MS4 permit, USEPA TMDLs interpret WQBELs to mean BMPs. Until the SGR M-TMDL is adopted as State TMDL, which must go through a basin plan amendment process, the City will rely on USEPA's definition of a WQBEL.

In any case, dry and wet WLAs are numeric targets established for USEPA's SGR M-TMDLs. They are listed in the table below.

San Gabriel River Watershed TMDLs

Wet Weather WLA			
Water Body	Copper	Lead	Zinc
San Gabriel River Reach 2	N/A	81.34 mg/l x daily storm volume (L)	N/A
Coyote Creek	24.71 mg/l x daily storm volume (L)	96.99 mg/l x daily storm volume (L)	144.57 mg/l x daily storm volume (L)
Dry Weather			
Water Body	Copper	Selenium	
San Gabriel Reach 1	18 mg/l	N/A	N/A
Coyote Creek	20 mg/l	N/A	N/A
San Gabriel Estuary	3.7 mg/l	N/A	N/A
San Jose Creek Reach 1	NA	5 mg/l	N/A

The compliance schedule for attaining the above dry and wet weather WLAs is shown in the table below.

Date	Dry Weather WLA	Wet weather WLA
June 30, 2017	30% (MS4's drainage area)	10% (MS4's drainage area)
June 30, 2020	70% (MS4's drainage area)	35% (MS4's drainage area)
June 30, 2023	100% (MS4's drainage area)	65% (MS4's drainage area)
June 30, 2026	100% (MS4's drainage area)	100%(MS4's drainage area)

According to the San Gabriel River Metals TMDL (SGR-MTMDL), which is currently a USEPA TMDL, all permittees located in the San Gabriel River watershed are subject to waste load allocations (WLAs) for copper, zinc, lead, and selenium as following excerpt from it indicates:

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

Wet-weather allocations will be developed for all upstream reaches and tributaries in the watershed that drain to impaired reaches during wet weather.³ Discharges to these upstream reaches can cause or contribute to exceedances of water quality standards in San Gabriel River Reach 2 and Coyote Creek and thus contribute to impairments.

However, the City is of the view that it should not be subject to any of the SGR M-TMDLs. Table 7-1 of the TMDL lists **South El Monte** as being located in Reach 3 of the SGR, which is not impaired.

In spite of this, Regional Board staff has concluded that the City is subject to all of the M-TMDLs because of the tributary rule. The tributary rule does not apply here, however. It only operates to extend a beneficial use within a reach to an unidentified water body such as a stream or a lake. It cannot extend a beneficial use to an outside reach for which that same use does not exist. For example, the beneficial use of Reach 2 of the Rio Hondo is ground water recharge. It obviously cannot apply the same use to an upstream or downstream reach, even though the reaches are tributary to it. And, in any case, a beneficial use and a water quality standard are two separate issues. A water quality standard is intended to protect a beneficial use. If that standard is not sufficient, based on monitoring, then a TMDL would be required.

v. *Dry and Wet Weather Interim and Final Receiving Water Limitations for San Gabriel River-Related TMDLs*

See paragraph (iv) above.

v. *Watershed Control Measures Implemented During Development of I-WMP*

It is not possible to identify Watershed Control Measures (WCM) at this time because none of the cities in Reach 2 of the Rio Hondo have implemented a TMDL Implementation Plan containing watershed-scale control measures. The only control measures that have been implemented by the City are localized BMPs contained in the SQMP.

If the Regional Board would like the City to provide a list of the localized BMPs implemented pursuant to the applicable TMDLs, the City would be happy to provide such a list. The City will develop WCMs in its WMP geared toward meeting the applicable benchmarks.

³This assertion contradicts State Board Water Quality Order 2001-15, which held: *There is no provision in state or federal law that mandates the adoption of separate water quality standards for wet weather conditions (see page 10).*

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

x. *Demonstration of an Low Impact Development Ordinance*

The City has begun development of the LID order to the extent that it: (1) has reviewed the City and County of Los Angeles' versions; (2) has made an initial draft version based on the City and County of Los Angeles' versions; and (3) is developing a more abbreviated ordinance of its own based thereon.

xi. *Demonstration of Green Street Policy Development*

The City is developing a Green Streets Policy and has developed an initial draft. The City's Green Street Policy is based on the requirements of the Order which applies to the **Land Use Development Program**, which is subject to new development and redevelopment projects as the following indicates:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁴ and is applicable to 10,000 square feet or more of impervious surface. The City will apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.*

⁴MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

Attachment #2: Los Angeles River Trash TMDLs All Reaches

Table 6. Los Angeles River Trash TMDL: Implementation Schedule.⁴⁵
 (Required percent reductions based on initial baseline wasteload allocation of each city)

Year	Implementation	Waste Load Allocation	Compliance Point
1 Sept 2008	Implementation: Year 1	60% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 60% of the baseline load
2 Sept 2009	Implementation: Year 2	50% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 55% of the baseline load calculated as a 2-year annual average
3 Sept 2010	Implementation: Year 3 ⁴⁶	40% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 50% of the baseline load calculated as a rolling 3-year annual average
4 Sept 2011	Implementation: Year 4	30% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 40% of the baseline load calculated as a rolling 3-year annual average
5 Sept 2012	Implementation: Year 5	20% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 30% of the baseline load calculated as a rolling 3-year annual average
6 Sept 2013	Implementation: Year 6	10% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 20% of the baseline load calculated as a rolling 3-year annual average
7 Sept 2014	Implementation: Year 7	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 10% of the baseline load calculated as a rolling 3-year annual average
8 Sept 2015	Implementation: Year 8	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 3.3% of the baseline load calculated as a rolling 3-year annual average
9 Sept 2016	Implementation: Year 9	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 0% of the baseline load calculated as a rolling 3-year annual average

Attachment #3: Legg Lake Trash TMDL

Task	Impacted Permitters	Deadline
Installation of Full Capture Systems to achieve 20% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2012
Installation of Full Capture Systems to achieve 40% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2013
Evaluate the effectiveness of Full Capture Systems, and reconsider the WLA.	Regional Board	March 6, 2013
Installation of Full Capture Systems to achieve 60% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2014
Installation of Full Capture Systems to achieve 80% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2015
Installation of Full Capture Systems to achieve 100% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6 th , 2016

* Compliance with percent reductions from the Baseline WLA will be assumed wherever full capture systems are installed in corresponding percentages of the conveyance discharging to the water body. Installation will be prioritized based on the greatest point source loadings.

P.O. Box 682, Walnut, CA 91788-0682
21201 La Puente Road
Walnut, CA 91789-2018
Telephone (909) 595-7543
FAX (909) 595-6095
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CITY OF WALNUT

TOM KING
Mayor

ANTONIO "TONY" CARTAGENA
Mayor Pro Tem

ERIC CHING
Council Member

MARY SU
Council Member

NANCY TRAGARZ
Council Member

June 26, 2013

California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Regional Board Staff:

Enclosed please find the Notice of Intent (NOI) for the City of Walnut required as part of the new National Pollution Discharge Elimination System Municipal Separate Storm Sewer Systems Permit. As stated in the NOI, the City of Walnut will be developing a Watershed Management Plan and associated Integrated Monitoring Plan.

Please do not hesitate to contact me should you require any additional information. Thank you in advance for your time and assistance.

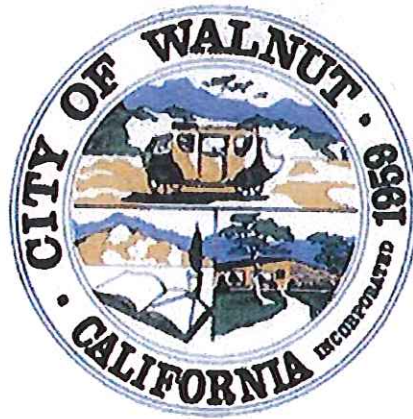
Sincerely,

Alicia Jensen
Senior Management Analyst
City of Walnut
P.O. Box 682
Walnut, CA 91788-0682
909-598-5605 x222
ajensen@ci.walnut.ca.us

Notice of Intent

City of Walnut

Watershed Management Plan



Submitted to:

California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Submitted by:

The City of Walnut
21201 La Puente Road
Walnut, CA 91789

June 28, 2013

Notice of Intent to Develop a Watershed Management Plan and Integrated Monitoring Plan

The City of Walnut hereby notifies the Los Angeles Regional Water Quality Control Board (LARWQCB) of the City's intent to proceed with the development of a Watershed Management Plan (WMP). Per Order No. R-2012-0175, NPDES Permit No. CAS 004001, Section VI.C.4.b.i. The City of Walnut will develop a Draft WMP and submit the plan for the Regional Board's review by June 28, 2014. Draft versions of the Low Impact Development Ordinance and Green Streets Policy are included in Appendix A and B. As required in Section VI.C.7 of NPDES Permit No. CAS 004001, the City will develop and submit an Integrated Monitoring Plan (IMP) in conjunction with the WMP.

Total Maximum Daily Loads (TMDL) & Water Quality Based Effluent Limitations (WQBEL)

In accordance with Section VI.C.4.b.ii of NPDES Permit CAS004001, the jurisdictional area of the City of Walnut discharges to tributaries subject to the TMDLs listed in Table A. Currently, the City is not subject to any interim or final Water Quality Based Effluent Limitations (WQBELs), however, the City will continue its existing programs and Minimum Control Measures until the WMP is approved and implemented.

Table A TMDLs Applicable to the City of Walnut

TMDL	Resolution Number	Effective Date	EPA Approval Date	Water Body	Impairment
San Gabriel River and Impaired Tributaries Metals and Selenium	2006-014	July 13, 2006	TBD	San Jose Creek	Dry Weather WLA for Selenium*

**As noted at the Board's June 6, 2013, LA Basin Plan Public Hearing, Walnut objects to the inclusion of the San Gabriel River Metals TMDL in the LA Basin Plan amendment since Selenium was removed as a TMDL on the USEPA's 2010 303(d) list.*

City Contact Information

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Walnut, CA 91789
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Attachment A

Draft LID Ordinance
City of Walnut

DRAFT LID ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE AMENDING [MUNICIPAL CODE SECTION REFERENCE(S)] OF THE CITY OF WALNUT MUNICIPAL CODE TO EXPAND THE APPLICABILITY OF THE EXISTING [NAME OF POST-CONSTRUCTION REQUIREMENTS - LIKELY "SUSMP" FOR MOST MUNICIPALITIES] REQUIREMENTS BY IMPOSING LOW IMPACT DEVELOPMENT (LID) STRATEGIES ON PROJECTS THAT REQUIRE BUILDING PERMITS.

CITY COUNCIL OF THE CITY OF WALNUT HEREBY ORDAINS THE FOLLOWING:

- (A) The City of Walnut is authorized by Article XI, §5 and §7 of the State Constitution to exercise the police power of the State by adopting regulations to promote public health, public safety and general prosperity.
- (B) The City of Walnut has authority under the California Water Code to adopt and enforce ordinances imposing conditions, restrictions and limitations with respect to any activity which might degrade the quality of waters of the State.
- (C) The city is a permittee under the "Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4," issued by the California Regional Water Quality Control Board--Los Angeles Region," (Order No. R4-2012-0175) which also serves as an NPDES Permit under the Federal Clean Water Act (NPDES No. CAS004001), as well as Waste Discharge Requirements under California law (the "Municipal NPDES permit"). In order to participate in a Watershed Management Program and/or Enhanced Watershed Management Program, the Municipal NPDES permit requires permittees to develop and implement a LID Ordinance.
- (D) The City of Walnut has applied an integrated approach to incorporate wastewater, stormwater and runoff, and recycled water management into a single strategy through its (_____) Plan.
- (E) The City of Walnut is committed to a stormwater management program that protects water quality and water supply by employing watershed-based approaches that balance environmental, social, and economic considerations.
- (F) It is the intent of the City of Walnut to expand the applicability of the existing Standard Urban Stormwater Mitigation Plan (SUSMP) requirements by providing stormwater and rainwater LID strategies for Development and Redevelopment projects as defined under "Applicability."

[MUNICIPAL CODE SECTION REFERENCE(S)] of the [CITY NAME] Municipal Code is amended in its entirety to read as follows:

Definitions.

Except as specifically provided herein, any term used in this [SECTION REFERENCE] shall be defined as that term in the current Municipal NPDES permit, or if it is not specifically defined in either the Municipal NPDES permit, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. If the definition of any term contained in this chapter conflicts with the definition of the same term in the current Municipal NPDES permit, then the definition contained in the Municipal NPDES permit shall govern. The following words and phrases shall have the following meanings when used in this chapter:

Automotive Service Facility means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5541, 5511, provided that these facilities have no outside activities or materials that may be exposed to stormwater (Source: Order No. R4-2012-0175).

Basin Plan means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Water Board on June 13, 1994 and subsequent amendments (Source: Order No. R4-2012-0175).

Best Management Practice (BMP) means practices or physical devices or systems designed to prevent or reduce pollutant loading from stormwater or non-stormwater discharges to receiving waters, or designed to reduce the volume of stormwater or non-stormwater discharged to the receiving water (Source: Order No. R4-2012-0175).

Biofiltration means a LID BMP that reduces stormwater pollutant discharges by intercepting rainfall on vegetative canopy, and through incidental infiltration and/or evapotranspiration, and filtration. Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term "biofiltration" as used in this Ordinance is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain (subject to approval by the Regional Board's Executive Officer). Biofiltration BMPs include bioretention systems with an underdrain and bioswales (Modified from: Order No. R4-2012-0175).

Bioretention means a LID BMP that reduces stormwater runoff by intercepting rainfall on vegetative canopy, and through evapotranspiration and infiltration. The bioretention system typically includes a minimum 2-foot top layer of a specified soil and compost mixture underlain by a gravel-filled temporary storage pit dug into the in-situ soil. As defined in the Municipal NPDES permit, a bioretention BMP may be designed with an overflow drain, but may not include an underdrain. When a bioretention BMP is designed or constructed with an underdrain it is regulated by the Municipal NPDES permit as biofiltration (Modified from: Order No. R4-2012-0175).

Bioswale means a LID BMP consisting of a shallow channel lined with grass or other dense, low-growing vegetation. Bioswales are designed to collect stormwater runoff and to achieve a uniform sheet flow through the dense vegetation for a period of several minutes (Source: Order No. R4-2012-0175).

City means the City of Walnut.

Clean Water Act (CWA) means the Federal Water Pollution Control Act enacted in 1972, by Public Law 92-500, and amended by the Water Quality Act of 1987. The Clean Water Act prohibits the discharge of pollutants to Waters of the United States unless the discharge is in accordance with an NPDES permit.

Commercial Malls means any development on private land comprised of one or more buildings forming a complex of stores which sells various merchandise, with interconnecting walkways enabling visitors to easily walk from store to store, along with parking area(s). A commercial mall includes, but is not limited to: mini-malls, strip malls, other retail complexes, and enclosed shopping malls or shopping centers (Source: Order No. R4-2012-0175).

Construction Activity means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that result in land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain the original line and grade, hydraulic capacity, or original purposes of the facility. See "Routine Maintenance" definition for further explanation. Where clearing, grading or excavating of underlying soil takes place during a repaving operation, State General Construction Permit coverage by the State of California General Permit for Storm Water Discharges Associated with Industrial Activities or for Stormwater Discharges Associated with Construction Activities is required if more than one acre is disturbed or the activities are part of a larger plan (Source: Order No. R4-2012-0175).

Control means to minimize, reduce or eliminate by technological, legal, contractual, or other means, the discharge of pollutants from an activity or activities (Source: Order No. R4-2012-0175).

Development means construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail, and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety (Source: Order No. R4-2012-0175).

Directly Adjacent means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area (Source: Order No. R4-2012-0175).

Discharge means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance.

Disturbed Area means an area that is altered as a result of clearing, grading, and/or excavation (Source: Order No. R4-2012-0175).

Flow-through BMPs means modular, vault type "high flow biotreatment" devices contained within an impervious vault with an underdrain or designed with an impervious liner and an underdrain (Modified from: Order No. R4-2012-0175).

General Construction Activities Storm Water Permit (GCASP) means the general NPDES permit adopted by the State Board which authorizes the discharge of stormwater from construction activities under certain conditions.

General Industrial Activities Storm Water Permit (GIASP) means the general NPDES permit adopted by the State Board which authorizes the discharge of stormwater from certain industrial activities under certain conditions.

Green Roof means a LID BMP using planter boxes and vegetation to intercept rainfall on the roof surface. Rainfall is intercepted by vegetation leaves and through evapotranspiration. Green roofs may be designed as either a bioretention BMP or as a biofiltration BMP. To receive credit as a bioretention BMP, the green roof system planting medium shall be of sufficient depth to provide capacity within the pore space volume to contain the design storm depth and may not be designed or constructed with an underdrain (Source: Order No. R4-2012-0175).

Hazardous Material(s) means any material(s) defined as hazardous by Division 20, Chapter 6.95 of the California Health and Safety Code.

Hillside means a property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes (Source: Order No. R4-2012-0175).

Impervious Surface means any man-made or modified surface that prevents or significantly reduces the entry of water into the underlying soil, resulting in runoff from the surface in greater quantities and/or at an increased rate, when compared to natural conditions prior to development. Examples of places that commonly exhibit impervious surfaces include parking lots, driveways, roadways, storage areas, and rooftops. The imperviousness of these areas commonly results from paving, compacted gravel, compacted earth, and oiled earth.

Industrial Park means land development that is set aside for industrial development. Industrial parks are usually located close to transport facilities, especially where more than one transport modalities coincide: highways, railroads, airports, and navigable rivers. It includes office parks, which have offices and light industry (Source: Order No. R4-2012-0175).

Infiltration BMP means a LID BMP that reduces stormwater runoff by capturing and infiltrating the runoff into in-situ soils or amended onsite soils. Examples of infiltration BMPs include infiltration basins, dry wells, and pervious pavement (Source: Order No. R4-2012-0175).

LID means Low Impact Development. LID consists of building and landscape features designed to retain or filter stormwater runoff (Source: Order No. R4-2012-0175).

MS4 means Municipal Separate Storm Sewer System (MS4). The MS4 is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

(40 CFR § 122.26(b)(8)) (Source: Order No. R4-2012-0175)

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §307, 402, 318, and 405. The term includes an "approved program" (Source: Order No. R4-2012-0175).

Natural Drainage System means a drainage system that has not been improved (e.g., channelized or armored). The clearing or dredging of a natural drainage system does not cause the system to be classified as an improved drainage system (Source: Order No. R4-2012-0175).

New Development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision (Source: Order No. R4-2012-0175).

Non-Stormwater Discharge means any discharge to a municipal storm drain system that is not composed entirely of stormwater (Source: Order No. R4-2012-0175).

Parking Lot means land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use, with a lot size of 5,000 square feet or more of surface area, or with 25 or more parking spaces (Source: Order No. R4-2012-0175).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, state, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

Planning Priority Projects means development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate stormwater pollution, prior to completion of the project(s) (Modified from: Order No. R4-2012-0175).

Pollutant means any "pollutant" defined in Section 502(6) of the Federal Clean Water Act or incorporated into the California Water Code Sec. 13373. Pollutants may include, but are not limited to the following:

- (1) Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge).
- (2) Metals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic).
- (3) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease).
- (4) Excessive eroded soil, sediment, and particulate materials in amounts that may adversely affect the beneficial use of the receiving waters, flora, or fauna of the State.
- (5) Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities).
- (6) Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus.

Project means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Pub. Resources Code §21065) (Source: Order No. R4-2012-0175).

Rainfall Harvest and Use means a LID BMP system designed to capture runoff, typically from a roof but can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department (Source: Order No. R4-2012-0175).

Receiving Water means "water of the United States" into which waste and/or pollutants are or may be discharged (Source: Order No. R4-2012-0175).

Redevelopment means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of routine maintenance activity; and land disturbing activity related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety (Source: Order No. R4-2012-0175).

Regional Board means the California Regional Water Quality Control Board, Los Angeles Region.

Restaurant means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812) (Source: Order No. R4-2012-0175).

Retail Gasoline Outlet means any facility engaged in selling gasoline and lubricating oils (Source: Order No. R4-2012-0175).

Routine Maintenance

Routine maintenance projects include, but are not limited to projects conducted to:

1. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
2. Perform as needed restoration work to preserve the original design grade, integrity and hydraulic capacity of flood control facilities.
3. Includes road shoulder work, regrading dirt or gravel roadways and shoulders and performing ditch cleanouts.
4. Update existing lines* and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity.
5. Repair leaks

Routine maintenance does not include construction of new** lines or facilities resulting from compliance with applicable codes, standards and regulations.

* Update existing lines includes replacing existing lines with new materials or pipes.

** New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines (Source: Order No. R4-2012-0175).

Significant Ecological Areas (SEAs) means an area that is determined to possess an example of biotic resources that cumulatively represent biological diversity, for the purposes of protecting biotic diversity, as part of the Los Angeles County General Plan. Areas are designated as SEAs, if they possess one or more of the following criteria:

1. The habitat of rare, endangered, and threatened plant and animal species.
2. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind, or are restricted in distribution on a regional basis.
3. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind or are restricted in distribution in Los Angeles County.

4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County.
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community.
6. Areas important as game species habitat or as fisheries.
7. Areas that would provide for the preservation of relatively undisturbed examples of natural biotic communities in Los Angeles County.
8. Special areas (Source: Order No. R4-2012-0175).

Site means land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity (Source: Order No. R4-2012-0175).

Storm Drain System means any facilities or any part of those facilities, including streets, gutters, conduits, natural or artificial drains, channels, and watercourses that are used for the purpose of collecting, storing, transporting or disposing of stormwater and are located within the City of Walnut.

Storm Water or Stormwater means water that originates from atmospheric moisture (rain or snow) and that falls onto land, water, or other surfaces. Without any change in its meaning, this term may be spelled or written as one word or two separate words.

Stormwater Runoff means that part of precipitation (rainfall or snowmelt) which travels across a surface to the storm drain system or receiving waters.

SUSMP means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP was required as part of the previous Municipal NPDES Permit (Order No. 01-182, NPDES No. CAS004001) and required plans that designate best management practices (BMPs) that must be used in specified categories of development projects.

Urban Runoff means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial, or industrial activities involving the use of potable and non-potable water.

[MUNICIPAL CODE SECTION REFERENCE(S)] is amended to read as follows:

SEC. [X]. STORMWATER POLLUTION CONTROL MEASURES FOR DEVELOPMENT PLANNING AND CONSTRUCTION ACTIVITIES

- (A) **Objective.** The provisions of this section contain requirements for construction activities and facility operations of Development and Redevelopment projects to comply with the current “Municipal NPDES permit,” lessen the water quality impacts of development by using smart growth practices, and integrate LID design principles to mimic

predevelopment hydrology through infiltration, evapotranspiration and rainfall harvest and use. LID shall be inclusive of SUSMP requirements.

(B) Scope. This Section contains requirements for stormwater pollution control measures in Development and Redevelopment projects and authorizes the City of Walnut to further define and adopt stormwater pollution control measures, develop LID principles and requirements, including but not limited to the objectives and specifications for integration of LID strategies, grant waivers from the requirements of the Standard Urban Stormwater Mitigation Plan, and collect funds for projects that are granted waivers. Except as otherwise provided herein, the City of Walnut shall administer, implement and enforce the provisions of this Section.

(C) Applicability. The following Development and Redevelopment projects, termed "Planning Priority Projects," shall comply with the requirements of **[SECTION NUMBER]**:

- (1) All development projects equal to 1 acre or greater of disturbed area that adds more than 10,000 square feet of impervious surface area.
- (2) Industrial parks 10,000 square feet or more of surface area.
- (3) Commercial malls 10,000 square feet or more of surface area.
- (4) Retail gasoline outlets with 5,000 square feet or more of surface area.
- (5) Restaurants (Standard Industrial Classification (SIC) of 5812) with 5,000 square feet or more of surface area.
- (6) Parking lots with 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces.
- (7) Streets and roads construction of 10,000 square feet or more of impervious surface area.
- (8) Automotive service facilities (Standard Industrial Classification (SIC) of 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area.
- (9) Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - a. Discharge stormwater runoff that is likely to impact a sensitive biological species or habitat; and
 - b. Create 2,500 square feet or more of impervious surface area
- (10) Single-family hillside homes.

(11) Redevelopment Projects

- a. Land disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on Planning Priority Project categories.
- b. Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction stormwater quality control requirements, the entire project must be mitigated.
- c. Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction stormwater quality control requirements, only the alteration must be mitigated, and not the entire development.
- d. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade.
- e. Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

(D) **Effective Date.** The Planning and Land Development requirements contained in Section 7 of Order No. R4-2012-0175 shall become effective 90 days from the adoption of the Order (February 6, 2013). This includes Planning Priority Projects that are discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals within 90 days of adoption of the Order. Projects that have been deemed complete within 90 days of adoption of the Order are not subject to the requirements Section 7.

(E) **Stormwater Pollution Control Requirements.** The Site for every Planning Priority Project shall be designed to control pollutants, pollutant loads, and runoff volume to the maximum extent feasible by minimizing impervious surface area and controlling runoff from impervious surfaces through infiltration, evapotranspiration, bioretention and/or rainfall harvest and use.

(1) A new single-family hillside home development shall include mitigation measures to:

- a. Conserve natural areas;
 - b. Protect slopes and channels;
 - c. Provide storm drain system stenciling and signage;
 - d. Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and
 - e. Direct surface flow to vegetated areas before discharge, unless the diversion would result in slope instability.
- (2) Street and road construction of 10,000 square feet or more of impervious surface shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable.
- (3) The remainder of Planning Priority Projects shall prepare a LID Plan to comply with the following:
- a. Retain stormwater runoff onsite for the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:
 - i. The 85th percentile 24-hour runoff event as determined from the Los Angeles County 85th percentile precipitation isohyetal map; or
 - ii. The volume of runoff produced from a 0.75 inch, 24-hour rain event, whichever is greater.
 - b. Minimize hydromodification impacts to natural drainage systems as defined in the Municipal NPDES Permit. Hydromodification requirements are further specified in [NAME OF POST-CONSTRUCTION BMP HANDBOOK].
 - c. When, as determined by the City of Walnut, 100 percent onsite retention of the SWQDv is technically infeasible, partially or fully, the infeasibility shall be demonstrated in the submitted LID Plan. The technical infeasibility may result from conditions that may include, but are not limited to:
 - i. The infiltration rate of saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soils to attain an infiltration rate necessary to achieve reliable performance of infiltration or bioretention BMPs in retaining the SWQDv onsite.
 - ii. Locations where seasonal high groundwater is within five to ten feet of surface grade;

- iii. Locations within 100 feet of a groundwater well used for drinking water;
 - iv. Brownfield development sites or other locations where pollutant mobilization is a documented concern;
 - v. Locations with potential geotechnical hazards;
 - vi. Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the onsite volume retention requirement.
- d. If partial or complete onsite retention is technically infeasible, the project Site may biofiltrate 1.5 times the portion of the remaining SWQDv that is not reliably retained onsite. Biofiltration BMPs must adhere to the design specifications provided in the Municipal NPDES Permit.
- i. Additional alternative compliance options such as offsite infiltration may be available to the project Site. The project Site should contact the City of Walnut to determine eligibility. Alternative compliance options are further specified in [NAME OF POST-CONSTRUCTION BMP HANDBOOK].
- e. The remaining SWQDv that cannot be retained or biofiltered onsite must be treated onsite to reduce pollutant loading. BMPs must be selected and designed to meet pollutant-specific benchmarks as required per the Municipal NPDES Permit. Flow-through BMPs may be used to treat the remaining SWQDv and must be sized based on a rainfall intensity of:
- i. 0.2 inches per hour, or
 - ii. The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, whichever is greater.
- f. A Multi-Phased Project may comply with the standards and requirements of this section for all of its phases by: (a) designing a system acceptable to the City of Walnut to satisfy these standards and requirements for the entire Site during the first phase, and (b) implementing these standards and requirements for each phase of Development or Redevelopment of the Site during the first phase or prior to commencement of construction of a later phase, to the extent necessary to treat the stormwater from such later phase. For purposes of this section, "Multi-Phased Project" shall mean any Planning Priority Project implemented over more than one phase and the Site of a Multi-Phased Project shall include any land and water area designed and used to store, treat or manage stormwater runoff in connection with the Development or Redevelopment, including any tracts, lots, or parcels of real property, whether Developed or not, associated with, functionally connected to, or under common ownership or control with such Development or Redevelopment.

(F) **Validity.** If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect remaining provisions of this Ordinance are declared to be severable.

(G) **Certification.** The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy.

APPROVED AND ADOPTED this ___th day of _____, 20__.

Mayor

ATTEST:

Teresa De Dios, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF WALNUT)

I, Teresa De Dios, City Clerk of the City of Walnut, do hereby certify that the foregoing Ordinance _____ being:

AN ORDINANCE AMENDING [MUNICIPAL CODE SECTION REFERENCE(S)] OF THE CITY OF WALNUT MUNICIPAL CODE TO EXPAND THE APPLICABILITY OF THE EXISTING [NAME OF POST-CONSTRUCITON REQUIREMENTS - LIKELY "SUSMP" FOR MOST MUNICIPALITIES] REQUIREMENTS BY IMPOSING LOW IMPACT DEVELOPMENT (LID) STRATEGIES ON PROJECTS THAT REQUIRE BUILDING PERMITS.

Said Ordinance was duly introduced at a regular meeting held on the ___th day of _____, 20__, and was adopted and passed at a regular meeting of the City Council on the _____ day of _____, 20__ by the following vote, to wit:

AYES: COUNCILMEMBER(S):
NOES: COUNCILMEMBER(S):
ABSENT: COUNCILMEMBER(S):
ABSTAIN: COUNCILMEMBER(S):

ATTEST:

Teresa De Dios, City Clerk

DRAFT

Attachment B

Draft Green Streets Policy
City of Walnut

Green Street Policy

City of Walnut

Purpose

The City of Walnut shall implement green street BMPs for transportation corridors associated with new and redevelopment street and roadway projects, including Capital Improvement Projects (CIPs). Implementation of this policy is to demonstrate compliance with the NPDES MS4 Permit for the Los Angeles Region (Order No. R4-2012-0175).

Green streets can provide many benefits including water quality improvement, groundwater replenishment, creation of attractive streetscapes, creation of parks and wildlife habitats, and pedestrian and bicycle accessibility. Green streets are defined as right-of-way areas that incorporate infiltration, biofiltration, and/or storage and use BMPs to collect, retain, or detain stormwater runoff as well as a design element that creates attractive streetscapes.

Policy

- A. **Application.** The City of Walnut shall require new development and/or redevelopment streets and roadway projects and CIP projects conducted within the right-of-way of transportation corridors to incorporate green street BMPs. Transportation corridors projects are roadway projects that add at least 10,000 square feet of impervious surface. Routine maintenance or repair and linear utility projects are excluded from these requirements. Routine maintenance includes slurry seals, repaving, and reconstruction of the road or street where the original line and grade are maintained.
- B. **Amenities.** The City of Walnut shall consider opportunities to replenish groundwater, create attractive streetscapes, create parks and wildlife habitats, and provide pedestrian and bicycle accessibility through new development and redevelopment of streets and roadway projects and CIPs.
- C. **Guidance.** The City of Walnut shall use the City of Los Angeles Green Streets guidance, USEPA's *Managing Wet Weather with Green Infrastructure Municipal Handbook: Green Streets*¹, or equivalent guidance developed by the [DEPARTMENT OF PUBLIC WORKS] for use in public and private developments.
- D. **Retrofit Scope.** The City of Walnut shall use the City's Watershed Management Program or Enhanced Watershed Management Program to identify opportunities for green street BMP retrofits. Final decisions regarding implementation will be determined by the City Engineer based on the availability of adequate funding.
- E. **Training.** The Department of Public Works shall incorporate aspects of green streets into internal annual staff training.

Notice of Intent I. Individual Watershed Management Plan

1. *Rationale for I-WMP*

The **City of West Covina** has chosen the I-WMP, albeit with reservation, to meet TMDL and non-water quality standards (referred to collectively as "WQSs") for several reasons including but not limited to the following:

- i. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSs, based on outfall monitoring against ambient WQSs. It is possible that the City has been meeting some or even most WQSs. If outfall monitoring shows persistent exceedances the I-WMP will contain a mechanism for addressing it.
- ii. The City cannot justify an Enhanced Watershed Management Plan (E-WMP) at this time because: (1) there are no water quality monitoring data that would justify this extreme and costly option; (2) neither the County of Los Angeles (which wrote the E-WMP provision in the current MS4 permit) nor the City of Los Angeles has indicated what multi-benefit projects it is proposing to provide the "safe harbor"¹ that would enable participating permittees to achieve compliance even if exceedances of TMDLs and non-TMDL WQSs occur²; (3) there is no guarantee that participating in an E-WMP would assure compliance with WQSs; (4) there is no current funding mechanism for the E-WMP³; and (5) were the City to commit to an E-WMP, it would be required to enter into an MOU that could bind it to its requirements even if funding is not available.
- iii. The City has chosen the I-WMP, even though it still ties it to having to comply with strict waste load allocations (WLAs) at the outfall and apparently in the receiving water as well. The City would have preferred to meet WQSs through the implementation of its stormwater management plan (SWMP) as is provided

¹Neither the County nor City of Los Angeles, which are encouraging permittees to participate in "regional multi-benefit" projects that would provide the safe harbor, has yet to disclose what those projects are.

²The MS4 permit asserts that the E-WMP provides compliance with WQSs and even with some minimum control measures (viz., the 6 core programs that form the stormwater management program required under federal law). There is reason to believe that this provision is extra-legal and could be voided either under administrative or judicial challenge. For one thing, an E-WMP is not a water quality based effluent limitation (WQBEL) which would translate a WQS into a compliance action. Perhaps it could have been one had the MS4 permit made clear that the E-WMP contains BMPs capable of meeting all the numeric WQSs over time. Instead, the MS4 permit incorrectly uses WQBEL to mean the same thing as a waste load allocation. Further, the EWMP's regional multi-benefit project requirement cannot guarantee compliance with WLAs measured at the outfall if the project is located outside of permittee's MS4. Even if the MS4 permit survives challenge, there is no guarantee that the E-WMP and its safe harbor provision will carry-over to the next MS4 permit. MS4 permits are five years in duration and the next Regional Board has the authority change permit requirements. It could not be argued that the anti-backsliding provision of Clean Water Action Section 402(o) would compel the next Regional Board to continue the E-WMP. This is because anti-backsliding only applies to WQSs, not to the means of achieving them. Further, 402(o) contains other anti-backsliding exemptions.

³The Los Angeles County Board of Supervisors indicated at its March 12, 2013 public hearing on the Clean Beaches, Clean Water Fee Initiative that it does not intend to re-try this proposition as a 218 parcel fee. Instead, they suggested that if another fee measure is attempted it would be through a regular tax vote.

under the Receiving Water Limitation (RWL) section of the MS4 permit. The RWL can be interpreted to mean that if a permittee implements its SWMP in a timely and complete manner it will be in compliance with WQSs. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an “iterative process.” However, the MS4 permit appears to over-ride the RWL provision by requiring permittees to meet the WQSs by any means necessary by interim TMDL deadlines. Nevertheless, just to err on the side of caution, the City has chosen the I-WMP because it will provide more time for compliance with interim WLAs. It is expected that by the time compliance with interim TMDLs is due, the administrative petition and state-wide RWL language (expected to be decided by the State Water Resources Control Board some time in February of 2014), will have been resolved. Although West Covina is opting for an I-WMP and CIMP, it shall work in cooperation with the following permittees on a watershed basis.

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • San Gabriel River⁴ 	<ul style="list-style-type: none"> • El Monte (reach 3) • South El Monte (reach 3) • Glendora (reach 5 and Walnut Creek) • Irwindale (reach 4 and 5) • West Covina (Walnut and San Jose Creek)

Each participating MS4 will be responsible for preparing its own individual WMPs and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development shall result in de facto terms.

2. *Water Quality Based Effluent Limitations and Receiving Water Limitations*

Dry and wet weather interim and final water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) are discussed below. There is a definitional problem with these terms, however. Neither the MS4 permit nor state and federal law define or refer to an interim or final WQBEL or RWL. Nor is there a definition of a dry or wet weather WQBEL and RWL. However, based on conversations with Regional Board staff it appears that a dry and wet weather WQBEL is synonymous with a dry and wet weather waste load allocation in a TMDL, but applied to outfalls. And, it appears that a dry and wet weather RWL are TMDL WLAs applied to a receiving water. The use of the term RWL is confusing because it does not square with its use under the Receiving Water Limitation section of the MS4 permit. Further, the MS4 permit defines a RWL to mean:

⁴Note: The TMDLs for reaches and segments within the San Gabriel River Metals TMDL (currently a USEPA TMDL) extends metals TMDLs (copper, lead, zinc, and selenium) to all permittees that drain into this watershed, regardless of whether a permittee is located within the impaired reach as determined by the State’s 303(d) list.

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Nevertheless, the foregoing definition is deficient to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should only have referenced WQs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQs in the sentence, thereby making it clear that WQs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

i. *Dry and Wet Weather Interim and Final WQBELs for San Gabriel River-Related TMDLs*

The City cannot identify wet weather interim and final WQBELs because of the uncertainty of what a WQBEL means. There is no definition of a wet weather or dry weather WQBEL anywhere in federal law or USEPA guidance. There is also no definition in Attachment A of the Order. It only explains it as acronym, which stands for a "water quality based effluent limitation." It has been suggested that a WQBEL is the same as a WLA. The City disagrees with this interpretation. A WQBEL is a means of attaining a WLA, generally expressed as BMPs. Complicating matters is that the SGR M-TMDL is a USEPA TMDL, which only requires WQBEL-BMPs to achieve compliance with TMDL WLAs. WQBELs, within the context of this TMDL, translate WLAs into BMPs, rendering a clear definition that does not exist in the Order.

Further complicating matters is that USEPA TMDLs do not define WQBELs to mean the same as WLAs. Instead, as noted in the current MS4 permit, USEPA TMDLs interpret WQBELs to mean BMPs. Until the SGR M-TMDL is adopted as State TMDL, which must go through a basin plan amendment process, the City will rely on USEPA's definition of a WQBEL. In any case, dry and wet WLAs are

numeric targets established for USEPA's SGR M-TMDLs. They are listed in the table below.

San Gabriel River Watershed TMDLs

Wet Weather WLA			
Water Body	Copper	Lead	Zinc
San Gabriel River Reach 2 ⁵	N/A	81.34 mg/l x daily storm volume (L)	N/A
Coyote Creek ⁶	24.71 mg/l x daily storm volume (L)	96.99 mg/l x daily storm volume (L)	144.57 mg/l x daily storm volume (L)
Dry Weather			
Water Body	Copper	Selenium	
Coyote Creek	20 mg/l	N/A	N/A
San Gabriel Estuary ⁷	3.7 mg/l	N/A	N/A
San Jose Creek Reach 1	NA	5 mg/l	N/A

According to the San Gabriel River Metals TMDL (SGR-MTMDL), which is currently a USEPA TMDL, all permittees located in the San Gabriel River watershed are subject to waste load allocations (WLAs) for copper, zinc, lead, and selenium as following excerpt from it indicates:

*Wet-weather allocations will be developed for all upstream reaches and tributaries in the watershed that drain to impaired reaches during wet weather.*⁸ Discharges to these upstream reaches can cause or contribute to exceedances of water quality standards in San Gabriel River Reach 2 and Coyote Creek and thus contribute to impairments.

However, the City is of the view that it should not be subject to any of the SGR M-TMDLs. Table 7-1 of the TMDL lists West Covina as being subject to TMDLs for Walnut Creek for toxicity and San Jose Creek Reach 1 for selenium. However, according to the 2010 303(d) list, toxicity for Walnut Creek and San Jose Creek, Reach 1, for selenium has been de-listed.

In spite of this, Regional Board staff has concluded that the City is subject to all of the M-TMDLs because of the tributary rule. The tributary rule does not apply here, however. It only operates to extend a beneficial use within a reach to an

⁵The City does not drain into Reach 2 of the San Gabriel River.

⁶According to the 2010 303(d) list relating to Coyote Creek: (1) the source of dissolved copper is "unknown;" (2) the source of lead is "point source municipal waste water; and (3) zinc has been delisted.

⁷According to the 2010 303(d) list, the source of dissolved copper for the San Gabriel River Estuary is unknown.

⁸This assertion contradicts State Board Water Quality Order 2001-15, which held: *There is no provision in state or federal law that mandates the adoption of separate water quality standards for wet weather conditions (see page 10).*

unidentified water body such as a stream or a lake. It cannot extend a beneficial use to an outside reach for which that same use does not exist. For example, the beneficial use of Reach 2 of the Rio Hondo is ground water recharge. It obviously cannot apply the same use to an upstream or downstream reach, even though the reaches are tributary to it. And, in any case, a beneficial use and a water quality standard are two separate issues. A water quality standard is intended to protect a beneficial use. If that standard is not sufficient, based on monitoring, then a TMDL would be required.

ii. *Dry and Wet Weather Interim and Final Receiving Water Limitations for San Gabriel River-Related TMDLs*

See paragraph (ii) above.

3. *Watershed Control Measures*

It is not clear if the MS4 permit requires watershed control measures for the I-WMP option non-TMDL pollutants. Nevertheless, the City's I-WMP shall identify watershed controls measures (WCMs) to be considered for implementation based on monitoring data generated from the CIMP. If persistent exceedances are detected, the I-WMP will be amended to include BMPs tailored to address the exceedances for TMDL or non-TMDL pollutants. The BMPs will be implemented to include one or more of the 6 minimum control measures mandated for MS4s under the Clean Water Act that will be specific to the TMDL.

Should additional WCMs be required, based on monitoring data indicating persistent exceedances detected at the outfall against ambient standards, the City will rely on implementation plans already developed for TMDLs by a number of permittees, including the County of Los Angeles Watershed Management Division. Specifically, it will review both structural and non-structural BMPs in the various implementation plans. The BMPs will undergo a reasonable assurance analysis using an appropriate performance-predicting model. Selection of the final BMP or suite of final BMPs will be based on the extent of the pollution problem (viz., the frequency and level of exceedances) and their individual or combined efficacy in addressing the exceeded WLAs.

4. *Demonstration of a Low Impact Development Ordinance*

The City has begun development of the LID ordinance to the extent that: (1) it has reviewed the City and County of Los Angeles' versions; and (2) is considering a more abbreviated ordinance of its own. The City's experience with the Standard Urban Stormwater Management Program (SUSMP) ordinance is that the more requirements specified in a code can result in less flexibility that could, as a result, pose a problem to enforcement. The City, therefore, is leaning towards code language that will be brief and will defer to LID guidelines that the City plans to develop at a later date, just as was the case for the SUSMP ordinance. It was the

stormwater quality management plan (SQMP) development planning/SUSMP guidelines under the previous Order that actually determined how compliance was to be specifically achieved. Further, guidelines can be easily amended as opposed to amending the code.

5. *Demonstration of Green Street Policy Development*

The Green Street Policy shall be based on the requirements of the Order which applies to the **Land Use Development Program** and its subject new development and redevelopment projects:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁹ and is applicable to 10,000 square feet or more of impervious surface. The City shall apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects*. It shall not, as specified in the Order, apply to routine maintenance for subject redevelopment projects necessary to:

maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade

The City's commitment to this policy shall be expressed through: (1) the Land Use Development element of its Stormwater Management Program ("SWMP"), which includes this and five other minimum control measures; and through (2) its General Plan Transportation Element at the time of its next update. The policy shall be effectuated as a type of infiltration best management practice (BMP) permittees have been incorporating into new and redevelopment projects under the previous Order's SUSMP since 2006.

The City sees no necessity in placing or implementing its green street program in its I-WMP. This is because green infrastructure is associated with the Land Use Development Program which is a mandatory core SWMP component that would be

⁹MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

implemented even if a permittee only chose to rely on its minimum control measures ("MCMs") to achieve compliance with TMDLs and other water quality standards.

6. *Technical Advisory Committee*

The MS4 permit specifies a technical advisory committee ("TAC") that will "advise and participate" in the development of WMPs and E-WMPs. It is not clear if the MS4 permit intended the TAC to also include I-WMPs. Further, although the TAC is to be comprised of representatives of watershed management areas ("WMAs") it does not specify a procedural mechanism for choosing them. The previous MS4 permit specified watershed management committees which were structured to make decisions based on majority rule. These committees were not carried over to this MS4 permit. A similar decision-making mechanism will need to be developed for selecting the TAC.

END SECTION I

Notice of Intent II. Coordinated Integrated Monitoring Plan

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQs; (2) determine to what extent MS4 permittees are meeting or not meeting WQs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location.

The City takes the position that a comparison of outfalls discharges against ambient referents is the only legally valid monitoring requirement for determining compliance. To this end, the City shall collect outfall samples in accordance with the MRP and measure them against ambient standards.¹⁰ Ambient standards have been used by the Los Angeles Regional Water Quality Control Board's Surface Water Ambient Program (SWAMP) for Dominguez Channel, Los Angeles River, and Machado Lake. It should be noted, however, that the Regional Board has not adhered to a consistent definition of ambient water quality monitoring. Although it references ambient in the Los Angeles River metals and bacteria TMDLs, it has not done so for the Dominguez Channel Harbors Toxics TMDL and for the Machado Lake Nutrients and Toxics TMDLs.

Ambient water quality monitoring is generally understood to mean collecting water quality samples during dry weather either during the dry season or during the wet season following a storm event. This has been confirmed by the Regional Board's SWAMP. SWAMP indicated that initially it performed ambient monitoring between 48 and 72 hours after a storm event. It later chose to conduct ambient during the spring and summer because there was no significant difference between the two sampling periods.

Measuring outfall discharges against wet weather WLAs is not required under federal or state law.¹¹ This argument is also reflected in the City's administrative petition challenging the MS4 permit. Nevertheless, the City shall compare outfall discharges against wet weather WLAs and data generated from existing in-stream stations relative to applicable TMDLs as well as against ambient discharges for purposes of reference and comparison rather than compliance.

END SECTION II

¹⁰It is well established that water quality standards, including California Toxics Rule standards, are ambient standards.

¹¹See State Water Resources Control Board Order WQ 2001-15, page 10-11.