

## Los Angeles Regional Water Quality Control Board

April 28, 2015

Permittees of the Los Angeles River Upper Reach 2 Watershed Management Group<sup>1</sup>

### **APPROVAL, WITH CONDITIONS, OF THE LOS ANGELES RIVER UPPER REACH 2 WATERSHED MANAGEMENT GROUP'S WATERSHED MANAGEMENT PROGRAM (WMP), PURSUANT TO THE LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (NPDES PERMIT NO. CAS004001; ORDER NO. R4-2012-0175)**

Dear Permittees of the Los Angeles River Upper Reach 2 Watershed Management Group:

On November 8, 2012, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board or Board) adopted Order No. R4-2012-0175, *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* (hereafter, LA County MS4 Permit). Part VI.C of the LA County MS4 Permit allows Permittees the option to develop either a Watershed Management Program (WMP) or an Enhanced Watershed Management Program (EWMP) to implement permit requirements on a watershed scale through customized strategies, control measures, and best management practices (BMPs). Development of a WMP or EWMP is voluntary and allows a Permittee to address the highest watershed priorities, including complying with the requirements of Part V.A (Receiving Water Limitations), Part VI.E and Attachments L through R (Total Maximum Daily Load Provisions), and by customizing the control measures in Parts III.A (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures), except the Planning and Land Development Program. Pursuant to Part VI.C.4.c of the LA County MS4 Permit, the Permittees of the Los Angeles River Upper Reach 2 Watershed Management Group (LAR UR2 WMG) jointly submitted a draft WMP dated June 26, 2014, to the Los Angeles Water Board for review.

#### **Public Review and Comment**

On July 3, 2014, the Board provided public notice and a 46-day period to allow for public review and comment on the ULAR2 WMG's draft WMP. A separate notice of availability regarding the

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<sup>1</sup> Permittees of the Los Angeles River Upper Reach 2 Watershed Management Group include the cities of Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, Maywood, Vernon, and the Los Angeles County Flood Control District. See attached distribution list.

draft WMPs, including the ULAR2 WMP, was directed to State Senators and Assembly Members within the Coastal Watersheds of Los Angeles County. The Board received three comment letters, including a joint letter from Heal the Bay, Los Angeles Waterkeeper, and the Natural Resources Defense Council; a letter from the Construction Industry Coalition on Water Quality; and a letter from Joyce Dillard, a private citizen, which were in part applicable to the LAR UR2 WMG draft WMP. On October 9, 2014, the Board held a workshop at its regularly scheduled Board meeting on the draft WMPs. The Board also held a public meeting on April 13, 2015 for permittees and interested persons to discuss the revised draft WMPs with the Executive Officer and staff. During its initial review and its review of the revised draft WMP, the Los Angeles Water Board considered those comments applicable to the LAR UR2 WMG's proposed WMP.

### **Los Angeles Water Board Review**

Concurrently with the public review, the Los Angeles Water Board, along with U.S. EPA Region IX staff, reviewed the draft WMP. On October 27, 2014, the Los Angeles Water Board sent a letter to the LAR UR2 WMG detailing the Board's comments on the draft WMP and identifying the revisions that needed to be addressed prior to the Board's approval of the LAR UR2 WMG's WMP. The letter directed the LAR UR2 WMG to submit a revised draft WMP addressing the Los Angeles Water Board's comments. Prior to the LAR UR2 WMG's submittal of the revised draft WMP, Board staff had a meeting on December 3, 2014 with LAR UR2 WMG representatives and consultants and subsequent e-mail exchanges to discuss the Board's comments and the revisions to the draft WMP, including the supporting reasonable assurance analysis (RAA), which would address the Board's comments. The LAR UR2 WMG submitted its revised draft WMP on January 27, 2015, for Los Angeles Water Board review and approval.

### **Approval of WMP, with Conditions**

The Los Angeles Water Board hereby approves, subject to the following conditions, the LAR UR2 WMG's January 27, 2015 revised draft WMP. The Board may rescind this approval if all of the following conditions are not met to the satisfaction of the Board within the timeframe provided below.

1. Remove the following language in Section 1.3.1.1. of the revised draft WMP (p. 15):  
"The Cities are reserving all of their rights to subsequently assert that the identified BMPs need not be implemented, on the grounds that they are not technically or economically feasible. In other words, that the BMPs are impracticable and contrary to the MEP standard, and that it is not possible to provide the reasonable assurances required under the Permit in a manner that is consistent with the MEP standard, if at all. The Cities agree that it is not possible to provide the reasonable assurances required under the Permit in a manner that is consistent with the MEP standard." It is unclear to the Los Angeles Water Board what the LAR UR2 WMG's intention is of including this language. The Board finds this language confusing and inconsistent with the provisions



of the permit. Development and implementation of WMPs are voluntary. Permittees may reserve their rights to challenge the permit, but Permittees must still comply with permit provisions either through the baseline requirements of the permit or through an approved WMP. To the extent the LAR UR2 WMG determines that any BMPs identified in its approved WMP should not be implemented due to infeasibility or impracticability, the LAR UR2 WMG must propose modifications to its approved WMP as part of the adaptive management process for Los Angeles Water Board review and approval. If you prefer, you can replace the stricken language above with the following language: "Nothing in this WMP shall affect the Cities' administrative petitions, nor shall anything in this WMP constitute a waiver of any positions or rights therein."<sup>2</sup>In Table 1-6 of the revised draft WMP, include First Phase deadlines for full implementation of the LAR UR2 WMG's Load Reduction Strategy (LRS) of March 23, 2019 for Segment B and September 23, 2020 for Segment B Tributaries, respectively, per the LA County MS4 Permit, Attachment O, Table O-1. Include implementation actions and milestones associated with full implementation of the Segment B LRS by March 23, 2019, including interim milestones within this permit term.

2. Reference the Los Angeles River Bacteria TMDL LRS, which was submitted by the LAR UR2 WMG in December 2014, in Section 3.1.5 of the revised draft WMP and include specific steps and dates for their achievement to be taken to investigate outlier outfalls consistent with the general approach of the LRS.
3. Section 3.1.5 of the revised draft WMP notes that the remaining catch basins that are not retrofitted with full capture devices are incompatible with the devices and will probably require significant and costly reconstruction prior to October 1, 2015. Revise the revised draft WMP to include a strategy to comply with the Los Angeles River Trash TMDL. When drafting a strategy, the LAR UR2 WMG should consider the language in the Tentative Basin Plan Amendment for the Reconsideration of the Los Angeles River Watershed Trash TMDL, which was publicly noticed on April 3, 2015.
4. Delete the reference to "Potential" and "Proposed" in Table 3-8 and revise table to only include specific commitments to non-structural BMP enhanced implementation actions. Indicate each Permittee's specific commitment(s) to each action in Table 3-8 "Potential Non-Structural BMP Enhanced Implementation Efforts," since these actions are the basis for the 5% load reduction from baseline.
5. Revise the revised draft WMP to present all model results of pollutant loads, allowable loads, target load reductions, and load reductions associated with control measures in units consistent with the respective TMDL (e.g., Los Angeles River Metals TMDL allowable loads should be given as daily loads not annual loads in Table 4-3). Each table in Section 4.0 must include units per time step (e.g., lbs/day) for the numeric values for clarity.

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<sup>2</sup> This alternative language is included in two other revised draft WMPs and is acceptable to the Los Angeles Water Board. See footnote 23 of the Lower Los Angeles River revised draft WMP and footnote 17 of the Lower San Gabriel River revised draft WMP.



6. Section 4.5, Modeling Calibration, of the revised draft WMP discusses a comparison of SBPAT and LSPC runoff volumes “to show the difference between simulated and observed values to ensure the model properly assess conditions and variables.” Provide this comparison of SBPAT and LSPC runoff volumes as an appendix or subsection to the model calibration section.
7. In Table 5-1 of the revised draft WMP, “Tentative Control Measure Implementation Schedule,” delete all instances of the word “tentative.” If you prefer, you can replace the word “tentative” with “approved” or “current.” In the last sentence of the second paragraph of Section 5.1, change the sentence “The WMP, including the schedule aspect, will be updated through the adaptive management process, therefore the schedule identified is always tentative.” to “The WMP, including the schedule aspect, will be updated through the adaptive management process; to that extent, the schedule identified is tentative unless the schedule is associated with TMDL provisions. However, any extensions of the dates in this schedule must be approved by the Los Angeles Water Board’s Executive Officer pursuant to Part VI.C.6.a or Part VI.C.8.a.ii-iii of the LA County MS4 Permit.” Where there is a failure to meet scheduled milestones without obtaining Executive Officer approval (or non-objection in the case of Part VI.C.8.a.iii of the LA County MS4 Permit), then the Permittees in the LAR UR2 WMG shall be subject to the baseline requirements of the LA County MS4 Permit, including demonstrating compliance with applicable receiving water limitations and TMDL-based WQBELs/WLAs through outfall and receiving water monitoring. See Parts VI.C.2.c and VI.E.2.d.i.(4)(c) of the LA County MS4 Permit.
8. Include interim milestones for LID Street implementation for each Permittee, associated with the LID Street Required Tributary Area by LAR UR2 WMG WMA Permittee in Table 5-1 and Figures 5-1 to 5-4 of the revised draft WMP that demonstrate progress toward achieving the final deadline of 2037.
9. In addition to conducting inspections and follow-up enforcement as required under the 2012 LA County MS4 Permit Industrial/Commercial Facilities Program, include specific actions and interim dates to *enhance* industrial facility inspections and follow-up enforcement, if necessary, particularly in those jurisdictions where industrial land use comprises a significant portion of the land area (e.g., Commerce and Vernon) to achieve the “Non-MS4 NPDES Parcels” control measure by December 2017 as indicated in Table 5-1 of the revised draft MS4. Indicate each Permittee’s responsibilities for these actions. Indicate how efforts will be focused on achieving progress toward reducing discharges of zinc and bacteria. Related to this, correct discussion in Section 4.3.2.3 of the revised draft WMP, which states that the 2001 LA County MS4 Permit did not require that Permittees enforce BMPs at industrial and commercial facilities. The 2001 LA County MS4 Permit did require Permittees to conduct progressive enforcement, per Part 4.C.3.c) and d) of the 2001 LA County MS4 Permit. Therefore, enforcement is not a change from the 2001 permit.

The LAR UR2 WMG shall submit a final WMP to the Los Angeles Water Board that satisfies all of the above conditions no later than June 12, 2015.



### **Determination of Compliance with WMP**

Pursuant to Part VI.C.6 of the LA County MS4 Permit, the Permittees of the LAR UR2 WMG shall begin implementation of the approved WMP immediately. To continue to be afforded the opportunity to implement permit provisions within the framework of the WMP, Permittees must fully and timely implement all actions per associated schedules set forth in the approved WMP regardless of any contingencies indicated in the approved WMP (e.g., funding and purported reservation of rights) unless a modification to the approved WMP, including any extension of deadlines where allowed, is approved by the Los Angeles Water Board pursuant to Part VI.C.6.a or Part VI.C.8.a.ii-iii. The Los Angeles Water Board will determine the LAR UR2 WMG Permittees' compliance with the WMP on the basis of the compliance actions and milestones included in the WMP, including, but not limited to, the following:

- Section 3 "Watershed Control Measures," including Section 3.3 "Proposed Control Measures;"
- Table 3-1 "LAR Metals TMDL Jurisdictional Group 2 Non-Structural BMPs Phased Implementation Plan;"
- Table 3-8 "~~Potential~~ Non-Structural BMP Enhanced Implementation Efforts;"
- Table 4-10 "LID Street Required Tributary area by LAR UR2 WMA Permittee;"
- Tables 4-17 to 4-20, which present load reductions associated with non-structural BMPs, regional BMPs, and distributed BMPs;
- Table 5-1 "~~Tentative~~ Control Measure Implementation Schedule" which establishes the implementation dates for non-structural BMPs, regional BMPs, and distributed BMPs; and
- Additional compliance actions and milestones established in response to Conditions 1, 2, 8 and 9, above.

Pursuant to Parts VI.C.3 and VI.E.2.d.i.(4)(a) of the LA County MS4 Permit, the LAR UR2 WMG Permittees' full and timely compliance with all actions and dates for their achievement in their approved WMP shall constitute compliance with permit provisions pertaining to applicable WQBELs/WLAs in Part VI.E and Attachment O of the LA County MS4 Permit. Further, per Part VI.C.2.b of the LA County MS4 Permit, the LAR UR2 WMG Permittees' full compliance with all requirements and dates for their achievement in their approved WMP constitutes compliance with the receiving water limitations provisions of Part V.A of the LA County MS4 Permit for the specific waterbody-pollutant combinations addressed by their approved WMP.

If the Permittees in the LAR UR2 WMG fail to meet any requirement or date for its achievement in the approved WMP, which will be demonstrated through the LAR UR2 WMG's Annual Reports and program audits (when conducted), the Permittees in the LAR UR2 WMG shall be subject to the baseline requirements of the LA County MS4 Permit, including demonstrating compliance with applicable receiving water limitations and TMDL-based WQBELs/WLAs through outfall and receiving water monitoring. See Parts VI.C.2.c and VI.E.2.d.i.(4)(c).

## **Annual Reporting**

The LAR UR2 WMG shall report on achievement of actions and milestones within the reporting year, as well as progress towards future milestones related to multi-year projects, through its Annual Report per Attachment E, Part XVIII of the LA County MS4 Permit. For multi-year efforts, the LAR UR2 WMG shall include the status of the project, which includes the status with regard to standard project implementation steps. These steps include, but are not limited to, adopted or potential future changes to municipal ordinances to implement the project, site selection, environmental review and permitting, project design, acquisition of grant or loan funding and/or municipal approval of project funding, contractor selection, construction schedule, start-up, and effectiveness evaluation (once operational), where applicable. For all stormwater retention projects, including but not limited to LID due to new/redevelopment, green streets, and regional BMPs, the Permittees in the LAR UR2 WMG shall report annually on the volume of stormwater retained in each jurisdictional subwatershed area.

The LAR UR2 WMG shall also include in its Annual Report the source(s) of funds used during the reporting year, and those funds proposed for the coming year, to meet necessary expenditures related to implementation of the actions identified in its WMP per Part VI.A.3 of the LA County MS4 Permit. Further, as part of the annual certification concerning a permittee's legal authority required by Part VI.A.2.b of the LA County MS4 Permit, each Permittee in the LAR UR2 WMG shall also certify in the Annual Report that it has the necessary legal authority to implement each of the actions and milestones in the approved WMP as required by Part VI.C.5.b.iv.(6). If a Permittee does not have legal authority to implement an action or milestone at the time the LAR UR2 WMG submits its Annual Report, the Permittee shall propose a schedule to establish and maintain such legal authority.

## **Adaptive Management**

The LAR UR2 WMG shall conduct a comprehensive evaluation of its WMP no later than April 28, 2017, and subsequently, every two years thereafter pursuant to the adaptive management process set forth in Part VI.C.8 of the Los Angeles County MS4 Permit. As part of this process, the LAR UR2 WMG must evaluate progress toward achieving:

- Applicable WQBELs/WLAs in Attachment O of the LA County MS4 Permit according to the milestones set forth in its WMP;
- Improved water quality in MS4 discharges and receiving waters;
- Stormwater retention milestones; and
- Multi-year efforts that were not completed in the current year and will continue into the subsequent year(s), among other requirements.

The LAR UR2 WMG's evaluation of the above shall be based on both progress implementing actions in the WMP and an evaluation of outfall-based monitoring data and receiving water data. Per Attachment E, Part XVIII.6 of the LA County MS4 Permit, the LAR UR2 WMG shall implement adaptive management strategies, including but not limited to:



- Refinement and recalibration of the Reasonable Assurance Analysis (RAA) based on data specific to the LAR UR2 WMG WMP area that are collected through the LAR UR2 WMG's Coordinated Integrated Monitoring Program and other data as appropriate;
- Identifying the most effective control measures, why they are the most effective, and how other control measures can be optimized based on this understanding;
- Identify the least effective control measures, why they are ineffective, and how the control measures can be modified or replaced to be more effective;
- Identify significant changes to control measures during the prior year(s) and the rationale for the changes; and
- Describe all significant changes to control measures anticipated to be made in the next year(s) and the rationale for each change.

As part of the adaptive management process, any modifications to the WMP, including any requests for extension of deadlines not associated with TMDL provisions, must be submitted to the Los Angeles Water Board for review and approval. The Permittees of the LAR UR2 WMG must implement any modifications to the WMP upon approval by the Los Angeles Water Board or its Executive Officer, or within 60 days of submittal of modifications if the Los Angeles Water Board or its Executive Officer expresses no objections. Note that the Permittees' Report(s) of Waste Discharge (ROWD) is due no later than July 1, 2017. To align any modifications to the WMP proposed through the adaptive management process with permit reissuance, results of the first adaptive management cycle should be submitted in conjunction with the Permittees' ROWD.

The Los Angeles Water Board appreciates the participation and cooperation of the LAR UR2 WMG in the implementation of the LA County MS4 Permit. If you have any questions, please contact Ivar Ridgeway, Storm Water Permitting, at [Ivar.Ridgeway@waterboards.ca.gov](mailto:Ivar.Ridgeway@waterboards.ca.gov) or by phone at (213) 620-2150.

Sincerely,



Samuel Unger, P.E.  
Executive Officer

Enclosure: Distribution List

## LOS ANGELES RIVER UPPER REACH 2

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