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## Los Angeles Regional Water Quality Control Board

February 6, 2023

Via Email Only

Permittees of the Malibu Creek Watershed Management Group<sup>1</sup>

**APPROVAL, WITH CONDITIONS, OF THE MALIBU CREEK WATERSHED MANAGEMENT GROUP'S WATERSHED MANAGEMENT PROGRAM (WMP) PURSUANT TO THE REGIONAL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) WASTE DISCHARGE REQUIREMENTS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR THE LOS ANGELES REGION (NPDES PERMIT NO. CAS004004; ORDER NO. R4-2021-0105)**

Dear Malibu Creek Watershed Management Group:

The Regional MS4 Permit (Order No. R4-2021-0105) authorizes discharges from the MS4 operated by 99 municipal Permittees within the coastal watersheds of Los Angeles and Ventura Counties (hereafter, Regional MS4 Permit or Order). The Regional MS4 Permit became effective on September 11, 2021. The Regional MS4 Permit allows the Permittee(s) the option to use a Watershed Management Program (WMP) to implement many of the permit's requirements through customized strategies, control measures, and best management practices (BMPs).

Pursuant to the State Water Resources Control Board (State Water Board) WQ Order No. 2020-0038 and/or the Los Angeles County MS4 Permit Order No. R4-2012-0175, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board or Board), received the Malibu Creek Watershed Management Group's revised WMP for the Malibu Creek Watershed dated June 30, 2021. Because the Regional MS4 Permit carries over many of the provisions from Order No. R4-2012-0175 and incorporates the required elements of Order No. 2020-0038, and because it is the currently effective permit, the WMP has been reviewed per Part IX of the Regional MS4 Permit.

This letter (1) conditionally approves the WMP submitted by the Malibu Creek Watershed Management Group (Group) subject to additional revisions of the WMP, (2) reviews compliance metrics for Water Body-Pollutant Combinations (WBPCs) and (3) specifies additional requirements including requirements for an updated adaptive management process.

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<sup>1</sup> Permittees of Malibu Creek Watershed Management Group includes the County of Los Angeles, the County of Los Angeles Flood Control District, and the cities of Agoura Hills, Calabasas, Hidden Hills and Westlake Village.

NORMA CAMACHO, CHAIR | RENEE PURDY, EXECUTIVE OFFICER

## Public Review and Comment

On December 21, 2021, the Los Angeles Water Board provided public notice and a 76-day period to allow for public review and comment on the WMPs submitted by June 30, 2021. The Board received one joint comment letter from Heal the Bay, the Los Angeles Waterkeeper, and the Natural Resources Defense Council, which generally applied to all WMPs. These comments were considered during staff's review of the WMP.

## Board's Review

Pursuant to Part IX.G.3.a of the Order, the Watershed Management Program and Reasonable Assurance Analysis (RAA) are required to be consistent with the requirements of the Regional MS4 Permit. On May 26, 2022, Los Angeles Water Board staff sent an email to the Group with questions regarding the Malibu Creek WMP. Staff sent a second email on May 31, 2022, requesting submittal of Appendix 8D, which was not included with the WMP submitted on June 30, 2021. On June 8, 2022, the Group provide responses and Appendix 8D to the Los Angeles Water Board. The Los Angeles Water Board hereby approves the Malibu Creek WMP dated June 30, 2021, subject to the following conditions:

1. Per Part IX.A.4.l of the Order, identify the lead agency for the Malibu Creek Watershed Management Group.
2. Per Part IX.G.3.a of the Order, update the MCW WMP to be consistent with the requirements of the Regional MS4 Permit and update all references to the previous permit.
3. In *Section 3.1.1 TMDLs* and Table 3-1, update the WMP to reflect the effective date of May 24, 2022, for revisions to the Los Angeles Region Basin Plan, per Los Angeles Water Board Resolution No. R21-001, to extend final compliance dates for the Santa Monica Bay Beaches Bacteria TMDL; the Malibu Creek and Lagoon Bacteria TMDL; the Malibu Creek Nutrients TMDL; and the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL. In addition, update Table 3-1 to reflect that the Santa Monica Bay Nearshore and Offshore Debris TMDL is in effect as of June 1, 2022.
4. In Table 3-1 on page 3-2, correct the effective date of the Santa Monica Bay Nearshore and Offshore Debris TMDL to March 20, 2012, and the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to July 2, 2013.
5. In *Section 3.1.1.2 Santa Monica Bay Beaches Bacteria TMDL*, page 3-4, the interim milestone does not apply to Jurisdictional Group 9 as identified in Attachment O, Table O-1 of the Regional MS4 Permit. Therefore, delete the second to the last sentence of Section 3.1.1.2 on page 3-4. The counties of Los Angeles and Ventura and the cities in the Malibu Creek Watershed are all jointly responsible for achieving compliance at monitoring location SMB MC-2. Since this includes the Permittees participating in the WMP, the WMP needs to include the water quality-based effluent limitations (WQBELs) and allowable exceedance days for compliance location SMB MC-2, which is the breach point of Malibu Lagoon.

6. In Section 3.1.1.3, Malibu Creek Trash TMDL, on page 3-4, correct the sentence to read, “The Trash TMDL was amended by the Regional Board on June 14, 2018 to align with the....” May 21, 2019 is the State Board adoption date.
7. Update Section 3.1.1.4, TMDL for Debris in the Near and Offshore Santa Monica Bay, on page 3-4, to indicate that the revised SMB Debris TMDL is now in effect. The Office of Administrative Law (OAL) approved the revised SMB Debris TMDL on November 17, 2021 and U.S. EPA approved the TMDL on June 1, 2022.
8. In Section 3.1.1.5, MCW Nutrient Related TMDLs, on page 3-5, the following sentence is incorrect, “The amended deadline to meet both nutrient and sediment related final WQBELs is July 15, 2026.” The Basin Plan Amendment adopted by the Regional Board on March 11, 2021, did not extend the compliance date for Los Angeles County MS4 Permittees below Malibu Lake to attain the sedimentation WLAs. Therefore, the compliance date to comply with the sediment WQBELs is still December 28, 2025. Correct the sentence to read as follows, “The amended deadline to meet the nutrient related final WQBELs is July 15, 2026.”
9. Also in Section 3.1.1.5, correct the next sentence to read, “Note that the 2016 Implementation Plan allows for a watershed-wide approach to address the sediment WLAs and provides a final deadline of May 16, 2032.” The Implementation Plan allows “15 years from the effective date” of the Implementation Plan. As stated in the WMP, the Implementation Plan became effective on May 16, 2017; therefore, the final deadline is May 16, 2032, not December 28, 2032.
10. In Section 3.1.1.6, Santa Monica Bay Toxics TMDL, page 3-6, the annual mass-based waste load allocations (WLAs) listed in Table 3-7 are assigned to the entire Santa Monica Bay Watershed. Therefore, the WLAs applicable to the Group is a percentage of the TMDL WLAs based on the drainage area of the WMP to the Santa Monica Bay Watershed. Therefore, Table 3-7 needs to be updated with the applicable WLAs for the WMP area.
11. In Table 3-8, page 3-7, correct the “Amended TMDL” column for the wet weather Santa Monica Bay Beaches Bacteria TMDL from July 15, 2026 to July 15, 2024. The Malibu Creek Watershed (Jurisdictional Group 9) received a three-year extension, not five years.
12. As stated above, the final compliance date for sediment in the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL was not extended. Therefore, update Table 3-8 to reflect that the “Effective TMDL” final deadline is December 28, 2025 and the “Amended TMDL” column is “Not Applicable.”
13. In Table 3-8, include the compliance date of September 11, 2021, for the Santa Monica Bay DDTs and PCBs TMDL. The Regional MS4 Permit requires Permittees to comply with the DDTs and PCBs TMDL as of the effective date of the Order, which is September 11, 2021.
14. In Section 3.1.2, 303(d) Listings and Other Pollutants, page 3-7, the current 303(d) List is the 2020-2022 Integrated Report approved by U.S. EPA on May 11, 2022. Update all 303(d) references in the WMP to reflect the current 303(d) List.
15. In Table 3-9 on page 3-8, Malibu Creek is not 303(d) listed for bis(2-ethylhexyl)phthalate; therefore, delete bis(2-ethylhexyl)phthalate from the table.
16. In Table 3-11 on page 3-16, under 303(d) - Category 2 - High Priority, delete bis(2-ethylhexyl)phthalate because this pollutant is not on the 303(d) list for Malibu Creek. In addition, delete bis(2-ethylhexyl)phthalate as a Category 3 - Medium Priority

pollutant since the land use monitoring data for bis(2-ethylhexyl)phthalate conducted within the Los Angeles region and listed in Table 4 of Appendix 2 were all non-detect.

17. In Table 4-13 on page 4-18, list the Gates Canyon Stormwater Improvement project completion date in the “Status” column.
18. In Tale 4-24 on page 4-50, add the capital and operations and maintenance (O&M) costs for a water treatment system (i.e., \$1,100,000 for capital and \$10,000 for operation and maintenance) and an irrigation system (i.e., \$2.2 / ft<sup>2</sup>) as provided in the response to the May 26, 2022 questions from the Los Angeles Water Board.
19. In Figures 5-2 and 5-5 on pages 5-4 and 5-9, respectively, update the figures to include the Lower Malibu Creek sub-watershed in the mask/shadow format consistent with the rest of the assessment areas.
20. Add a new Section between Section 5.5 and Section 5.6 that compares the baseline water quality conditions and the calculated targets shown in Table 5-2 to determine the required reductions estimated. Insert a new table that compares the required reductions with the proposed volumes to be managed and BMP capacities specified in Figures 6-1 through 6-5 and Attachment 8C to demonstrate how the RAA-recommended projects will meet the required load and volume reductions for each RAA Assessment Area and city.
21. Table 6-1 on page 6-3 lists a total of 35 BMPs; however, in Appendix 8C, the table on the “Regional BMP Summary” tab lists a total of 37 BMPs. Table 6-1 is missing the column labeled “LID on Public Parcels,” which includes a project for Agoura Hills and Westlake Village. Update Table 6-1 to be consistent with Appendix 8C.
22. In Table 6-3 on page 6-29, delete the Gates Canyon project from the proposed near-term implementation schedule since this project has been completed.
23. In Section 8, update the adaptive management process to include all the requirements specified in Part IX.E of the Regional MS4 Permit.
24. Update Appendix 4 to be consistent with the revised WMP and Appendix 3.
25. Update the legal authority in Appendix 10 for each Permittee to reference the Regional MS4 Permit.

These typographical errors also need to be corrected in the revised WMP:

26. Correct the “List of Appendices” on page vi to reflect that Appendix 9 is the Permittee MS4 Location Figures and Appendix 10 contains the Legal Authorities. In addition, add Appendix 8D, Cost Optimization Curves, to the List of Appendices.
27. Section 4.4.2, Opportunity Area Identification, on page 4-32, in the first sentence of the last paragraph, the phrase “of the opportunity” is repeated.
28. In Table 4-26 on page 4-51, the total for the LID column is 19 not 9.
29. In Section 4.5 on page 4-54 and Section 5.7 on page 5-24, replace “(LINK)” with the appropriate link(s).
30. Section 5 Reasonable Assurance Analysis, page 5-1, in the first paragraph, correct the Section references to the “EWMP Implementation Plan,” which is in Section 6 not Section 5.
31. There are references in Section 5 to an Appendix C on page 5-1 and an Appendix C-1 on page 5-7, which need to be corrected since the WMP does not have Appendices C or C-1.

32. In Section 6.2, Recipe for EWMP Implementation, on page 6-2, there is a reference to Section 5.2.4, which is not in the WMP.
33. In Figure 6-4 on pages 6-12 through 6-17, correct the legend for BMP Capacity to read "< 0.01" instead of greater than 0.01. This correction also needs to be made on some of the Figures in Appendix 8B.
34. In Appendix 2, Table 4, on page 31, revise the units for dissolved lead, total lead, total mercury, total selenium, bis(2-ethylhexyl)phthalate, and organochlorine pesticides and PCBs to micrograms per liter.
35. In Appendix 3 on page 1, the "Map Label" column for Gates Canyon needs to be corrected to LVC-14, not LCV-14.
36. In Appendix 3, Figure A-1 on page 2, there are five regional BMPs shown on the map, not six.

Approval of the Group's WMP, subject to the conditions above, reinstates the Group's deemed compliance status, per the Board's Order WQ 2020-0038, letter on the Group's February 25, 2022 status of compliance demonstration, for the WBPCs identified below.

The Board may rescind this approval if any of the conditions in this letter are not met to the satisfaction of the Board within the timeframe provided below. Pursuant to Part IX.G.4 of the Order, if the necessary revisions are not appropriately made, the Group shall be subject to all requirements in the Order except those requirements pertaining to Watershed Management Programs upon disapproval by the Los Angeles Water Board.

The Group shall submit a final WMP to the Los Angeles Water Board that satisfies all of the above conditions no later than **April 6, 2023**. The final WMP must be submitted electronically by uploading the files in a Folder with the name of the Group to the FTP site using the following credentials:

FTP site: <https://ftp.waterboards.ca.gov>

Username: RB4MS4-Upload

Password: RB4-bmBb3Z

Pursuant to Parts IX.C.1 and IX.G.3.c of the Order, **the Group shall implement their approved WMP immediately**. The Group is subject to all applicable compliance schedules in Part IV.B and Attachments K through S of the Order.

### **Compliance Determination for WBPCs other than Trash**

**Compliance Metric:** Pursuant to Part IX.B.7.h of the Order, the WMP is required to specify the expected volume capture, load reductions, or other compliance metric(s) at regular milestones, and the methods by which these reductions will be measured and demonstrated for each WBPC and supported via the RAA. Based on the information provided in the WMP, and pending revision of the WMP to address the conditions of this approval letter, the Board will determine deemed compliance with the Group's WMP and associated interim WQBELs based on the following compliance metric(s) with the approved compliance schedule:

- Total structural BMP capacity per *Figure 6-1: Malibu Creek EWMP Implementation Plan by Watershed/Assessment Area*; and
- Per the schedule as presented in *Figure 6-5. Scheduling of EWMP Implementation Plan that Would be Required to Achieve Current TMDL Schedules*.
- Alternative schedules are presented in *Table 6-3. Near-Term (5-Year) Implementation Schedule* and *Table 6-4. Proposed MCW EWMP Long-Term Implementation Schedule*. These schedules are contingent upon the Group obtaining a time schedule order per Part X.E. of the Regional MS4 Permit.

The Group must demonstrate compliance with final WQBELs through the direct demonstration of compliance options outlined in Part X.B.2.a of the Order or revise the WMP to include structural BMPs that retain all non-stormwater runoff and the volume of stormwater runoff from the 85<sup>th</sup> percentile 24-hour storm event.

**WBPCs Eligible for Deemed Compliance Through Alternative Demonstration of Compliance:** The following WBPCs will receive deemed compliance through the WMP if the actions and schedules specified in the WMP are attained as outlined in Parts X.B.1.b and X.B.2.b of the Order and pending revision of the WMP to address the conditions of this approval letter:

- As listed in *Table 3-11. Water Body Prioritization from the MCW EWMP*, except for the following WBPCs:
  - Trash for all water bodies;
  - Triunfo Canyon Creek Reaches 1 and 2 for lead; and
  - Santa Monica Bay for *E. coli*, DDTs and PCBs.

Any WBPCs that are not listed above are not eligible for deemed compliance for one or more of the following reasons: (a) for Category 1 WBPCs with interim deadlines, the WMP proposes watershed control measures for which there are no quantitative analyses that satisfy the RAA requirements, (b) the final TMDL deadline(s) have passed and there is no approved Time Schedule Order (TSO) or retention of all non-stormwater runoff and the volume of stormwater runoff from the 85<sup>th</sup> percentile 24-hour storm event, (c) the WMP proposes implementing baseline Permit requirements only, and/or (d) the WMP does not propose implementing additional BMPs and proposes to demonstrate compliance through monitoring.

### **Compliance Determination for Trash WBPCs**

Trash WBPCs are not eligible for deemed compliance under the WMP. For Trash WBPCs, compliance shall be determined as outlined in Part X.C of the Order.

### **Adaptive Management**

Pursuant to Part IX.E.1 of the Order, the Permittee(s) shall implement an adaptive management process for each approved WMP. An adaptive management process is a periodic, comprehensive program evaluation, including re-analysis of data and/or

modeling, and modification process to determine progress toward achieving WQBELs and receiving water limitations and to adapt the Watershed Management Program to become more effective at achieving WQBELs and receiving water limitations. Pursuant to Part IX.E.4 of the Order, Permittee(s) shall submit the results of the adaptive management process with the Permittees' Report of Waste Discharge (ROWD) to the Los Angeles Water Board no later than **March 15, 2026**.

Per Part IX.E.3 of the Order, the adaptive management process fulfills the requirements in Part V.D of the Order to address continuing exceedances of receiving water limitations.

### **WMP Modifications**

As indicated in Part IX.E.2 of the Order, based on the results of the adaptive management process, the Permittee(s) may propose WMP modifications necessary to improve the effectiveness of the WMP. The Permittee(s) shall clearly identify any WMP modification proposals in their submittal of the adaptive management results.

Additionally, per Part IX.C.2 of the Order, notwithstanding Part IX.E (Adaptive Management) of the Order, the Permittee(s) may propose WMP modifications at any time during the term of the Order, as necessary as a standalone request. As explained in Attachment H of the Order, the Permittee(s) cannot submit WMP modification requests as part of the Annual Report. The Permittee(s) shall provide separate written requests explaining the nature of the proposed modification and justification for consideration by the Los Angeles Water Board.

### **Receiving Water Limitations Compliance Report**

Per Part IX.B.9.c.iv of the Order and Part XIV.C.4 in Attachment E of the Order, implementation of actions to address water quality priorities in a Watershed Management Program related to addressing exceedances of receiving water limitations in Part V (Receiving Water Limitations) of the Order which is not otherwise addressed by TMDLs in Part IV of the Order and Attachments K through S, fulfills the requirements in Part V.C of the Order to prepare a Receiving Water Limitations Compliance Report.

If you have any questions, please contact Mr. Ivar Ridgeway, Municipal Stormwater Permitting Unit Supervisor by email at [Ivar.Ridgeway@waterboards.ca.gov](mailto:Ivar.Ridgeway@waterboards.ca.gov) or by phone at (213) 620-2150.

Sincerely,

for Renee Purdy  
Executive Officer

cc: Kelly Fisher, City of Agoura Hills

Alex Farassati, City of Calabasas  
Joe Bellomo, City of Hidden Hills  
Roxanne Hughes, City of Westlake Village  
Bruce Hamamoto, County of Los Angeles  
Jalaine Q. Verdiner, County of Los Angeles  
Chris Minton, Larry Walker and Associates