California Regional Water Quality Control Board
Santa Ana Region

September 13, 2013

ITEM: *7

SUBJECT: Consideration of Approval of Waste Discharge Requirements for the Cities of Claremont and Pomona for Implementation of the Middle Santa Ana River Bacterial Indicator Total Maximum Daily Loads, Order No. R8-2013-0043, NPDES No. CA8000410, Los Angeles County

DISCUSSION:

See attached Fact Sheet

RECOMMENDATION:

Adopt Order No. R8-2013-0043, NPDES No. CA8000410, as presented.

State of California
California Regional Water Quality Control Board
Santa Ana Region

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ORDER NO. R8-2013-0043
NPDES NO. CA8000410

WASTE DISCHARGE REQUIREMENTS FOR THE IMPLEMENTATION OF BACTERIAL INDICATOR TOTAL MAXIMUM DAILY LOADS FOR THE MIDDLE SANTA ANA RIVER WATERSHED WATERBODIES ISSUED TO THE CITIES OF CLAREMONT AND POMONA

The following Dischargers are subject to waste discharge requirements as set forth in this Order:

Table 1. Dischargers/Facility Information

Dischargers	**The Cities of Claremont and Pomona**
Name of Facility	**Municipal Separate Storm Sewer Systems (MS4) Discharging Wastes Containing Bacteria into the Middle Santa Ana River Watershed Waterbodies**
Facility Location	**MS4 systems located within the Cities of Claremont and Pomona that are tributary to waterbodies within the Santa Ana Region.**
The U.S. Environmental Protection Agency (USEPA) and the Regional Water Quality Control Board have classified this discharge as a **minor** discharge.	

The discharge of storm water and authorized non-storm water by the Cities of Claremont and Pomona from the discharge points identified below in Table 2 are subject to waste discharge requirements as set forth in this Order:

Table 2. Discharge Location

Discharge Points	Effluent Description	Discharge Point (Latitude)	Discharge Point (Longitude)	Receiving Water
VARIOUS	Storm water and authorized non-storm water Discharges	various	various	Middle Santa Ana River Watershed Waterbodies. The discharges are to San Antonio Creek and Chino Creek.

Table 3. Administrative Information

This Order was adopted by the Santa Ana Water Board on:	September 13, 2013
This Order shall become effective on:	October 1, 2013
This Order shall expire on:	October 1, 2018
The Dischargers shall file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than:	April 1, 2018

IT IS HEREBY ORDERED, that in order to meet the provisions contained in Division 7 of the California Water Code (CWC) (commencing with section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA) and regulations and guidelines adopted thereunder, the Dischargers shall comply with the requirements in this Order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that Order No. R8-2013-0043, with all attachments, is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 13, 2013.

Kurt V. Berchtold
Executive Officer

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I. DISCHARGERS/FACILITY INFORMATION

The following Dischargers are subject to waste discharge requirements as set forth in this Order:

Table 4. Dischargers/Facility Information

Dischargers	The Cities of Claremont and Pomona
Dischargers Contact	1. City Engineer, 207 Harvard Avenue, City of Claremont, CA 91711. Phone: 909-399-5474 2. Environmental Programs Coordinator, 505 South Garey Avenue, Pomona, CA 91766. Phone: 909-620-3628
Mailing Address	Same as above
Facility	MS4 systems within the cities of Claremont and Pomona that discharge into waterbodies in the Santa Ana Region
Facility Address	Cities of Claremont and Pomona, see Dischargers Contact Information above
Facility Contacts	Same as Dischargers Contact above
Contacts Mailing Address	Same as Dischargers Contact
Type of Facility	Municipal Separate Storm Sewer Systems carrying storm water and authorized non-storm water discharges
Facility Design Flow	The Order does not specify any design flow; however, the MS4 systems are designed to carry flows generated from a 100-year frequency storm.

II. FINDINGS

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter the Santa Ana Water Board), finds:

A. Background: The Cities of Claremont and Pomona (hereinafter jointly referred to as the Cities or the Dischargers or Permittees) discharge storm water and authorized non-storm water (collectively referred to as urban runoff) into the San Gabriel River Watershed and the Middle Santa Ana River Watershed. These Cities are located within the Los Angeles Regional Water Quality Control Board's (Los Angeles Water Board) geographic jurisdictional boundary. Pursuant to California Water Code Section 13228, the Cities of Claremont and Pomona and the Los Angeles and the Santa Ana Water Boards have agreed that urban runoff containing bacterial indicators from the Cities into the Middle Santa Ana River Watershed should be regulated by the Santa Ana Water Board (Attachment D). This Order only regulates discharges from the Dischargers' municipal separate storm sewer systems (MS4) into waterbodies within the Santa Ana Region.

B. On May 31, 2013, the Los Angeles Water Board designated the Santa Ana Water Board as the regulator for the Cities' discharge of urban runoff containing bacteria into the Middle Santa Ana River Watershed.

C. This designation was to facilitate the implementation of the Santa Ana Water Boards' 2005 Bacterial Indicator Total Maximum Daily Load (TMDL) for the Middle Santa Ana River Watershed Waterbodies (MSAR Bacterial Indicator TMDL). As such, this Order only includes requirements that are necessary to implement the MSAR Bacterial Indicator TMDLs for the Cities that are geographically under the Los Angeles Water Board jurisdiction.

   For the purposes of this Order, references to the "Dischargers" or "Permittee" in applicable federal and State laws, regulations, plans, or policy are held to be equivalent to references to the Dischargers, the Cities, or the Permittees herein.

D. **MS4 Permits:** The discharge of storm water and authorized non-storm water from the Cities of Claremont and Pomona are currently regulated under the Los Angeles Water Board Order No. R4-2012-0016 (hereinafter referred to as the LA MS4 Permit). This Order, being issued by the Santa Ana Water Board, only regulates discharges of bacterial indicators in urban runoff from the Permittees' MS4 systems to surface waters that are tributary to the middle Santa Ana River. This Order only addresses implementation of MSAR Bacterial Indicator TMDL.

E. **Facility Description:** The Dischargers own and/or operate MS4 systems that carry urban runoff containing bacteria. These MS4 systems discharge urban runoff to waterbodies within the Middle Santa Ana River Watershed. This Order only implements the wasteload allocations in the MSAR Bacterial Indicator TMDL.

F. **Legal Authorities:** This Order serves as Waste Discharge Requirements (WDRs) pursuant to Article 4, Chapter 4 of California Water Code (CWC) commencing with Section 13260. This Order shall also serve as an NPDES permit pursuant to Section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and Chapter 5.5, Division 7 of the CWC for point source discharges from this facility to the surface waters.

G. **Background and Rationale for Requirements:** The Santa Ana Water Board developed the requirements in this Order based on information contained in the documents related to the development of MSAR Bacterial Indicator TMDL and other available information. Attachment C, which contains background information and rationale for Order requirements, is hereby incorporated into this Order and, thus constitutes part of the Findings for this Order.

H. **California Environmental Quality Act (CEQA):** Pursuant to California Water Code Section 13389, the adoption of NPDES permits is exempt from the provisions of CEQA.

I. **Technology-based Effluent Limitations:** Section 301(b) of the CWA and NPDES regulations at Title 40 of the Code of Federal Regulations (40 CFR) section 122.44[1], require that permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards

J. **Water Quality-based Effluent Limitations:**

(1) Section 301(b) of the CWA and NPDES regulations at 40 CFR section 122.44(d) require that permits include limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards.

(2) 40 CFR Section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have a reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established using: (a) USEPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (b) an indicator parameter for the pollutant of concern; or (c) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in 40 CFR section 122.44(d)(1)(vi).

(3) In *Defenders of Wildlife, et al v. Browner*, No. 98–71080 (9th Circuit, October 1999), the Court held that the CWA does not require "strict compliance" with State water quality standards for MS4 permits under section 301(b)(1)(C), but that at the same time, the CWA does give EPA discretion to incorporate appropriate water quality-based effluent limitations under another provision, CWA section 402(p)(3)(B)(iii). 40 CFR 122.44(k)(3) allows the use of Best Management Practices (BMPs) to control or abate the discharge of pollutants when numeric effluent limitations are infeasible or when practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

(4) Federal regulations (40 CFR 122.44(d)(1)(vii)(B)) require inclusion of effluent limits that are "consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA."

(5) If water quality standards in the impaired receiving waters are met through implementation of appropriate control measures, this would constitute compliance with the effluent limits.

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[1] *All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.*

(6) The interim and final Water Quality Based Effluent limits in this Order are consistent with the assumptions and requirements of the wasteload allocations in the Bacterial Indicator TMDL for the Middle Santa Ana River Watershed Waterbodies.

K. **Water Quality Control Plans:** The Santa Ana Water Board adopted a revised Water Quality Control Plan for the Santa Ana Region (hereinafter Basin Plan) that became effective on January 24, 1995. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Santa Ana Region. More recently, the Basin Plan was amended significantly to incorporate revised boundaries for groundwater subbasins, now termed "management zones", new nitrate-nitrogen and TDS objectives for the new management zones, and new nitrogen and TDS management strategies applicable to both surface and groundwaters. This Basin Plan Amendment was adopted by the Santa Ana Water Board on January 22, 2004 and became fully effective on June 20, 2007.

As discussed in detail in the Fact Sheet (Attachment C), the discharges from the Cities are to San Antonio Creek and Chino Creek. These creeks are tributary to Reach 3 of the Santa Ana River. The beneficial uses of these waterbodies include:

Table 5. Basin Plan Beneficial Uses

Beneficial Uses	Chino Creek	San Antonio Creek – Valley Reach	Santa Ana River, Reach 3
Agricultural supply			X
Groundwater recharge		I**	X
Water contact recreation	X[2]	I	X
Non-contact recreation	X	I	X
Warm freshwater habitat		I	X
Wildlife habitat	X	I	X
Rare, threatened or endangered species habitat			X
Municipal and domestic supply		I	
Industrial service supply			
Industrial process supply			
Hydropower generation			
Cold freshwater habitat			
Limited warm freshwater habitat	X		

**I = Intermittent uses

Requirements in this Order implement the Basin Plan.

[2] *Access prohibited in some portions by San Bernardino County Flood Control*

L. **National Toxics Rule (NTR) and California Toxics Rule (CTR):** USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About forty criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the CTR. The CTR promulgated new toxics criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. The NTR and CTR contain water quality criteria for priority pollutants.

M. **State Implementation Policy:** On March 2, 2000, the State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP). The SIP became effective on April 28, 2000, with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the Santa Ana Water Board in the Basin Plan. The SIP became effective on May 18, 2000, with respect to the priority pollutant criteria promulgated by the USEPA through the CTR. The State Water Board adopted amendments to the SIP on February 24, 2005 that became effective on July 13, 2005. The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control.

N. **Alaska Rule:** On March 30, 2000, USEPA revised its regulation that specifies when new and revised State and Tribal water quality standards (WQS) become effective for CWA purposes (40 CFR 131.21, 65 FR 24641, April 27, 2000). Under the revised regulation (also known as the Alaska Rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000, may be used for CWA purposes, whether or not approved by USEPA.

O. **Antidegradation Policy:** This Order implements TMDLs that are developed to improve water quality. As such, this Order will not cause any degradation in water quality.

P. **Anti-Backsliding Requirements:** Anti-backsliding requirements are applicable to re-issued permits. This is the first time this Order has been issued to the Dischargers by the Santa Ana Water Board. As such, anti-backsliding requirements are not applicable to this Order.

Q. **Monitoring and Reporting:** As per 40 CFR section 112.48 and Water Code Sections 13267 and 13383 monitoring and reporting requirements are included in this Order.

R. **Biosolids Requirements: (Not applicable)**

S. **State General Waste Discharge Requirements for Sanitary Sewer Systems:** (Not applicable)

T. **Standard and Special Provisions:** Included as required under federal regulations.

U. **Notification of Interested Parties:** The Santa Ana Water Board has notified the Dischargers and interested agencies and persons of its intent to prescribe Waste Discharge Requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet (Attachment C) of this Order.

V. **Consideration of Public Comment:** The Santa Ana Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet (Attachment C) of this Order.

PERMIT REQUIREMENTS:[3]

IT IS HEREBY ORDERED that the Permittees, in Order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and the regulations and guidelines adopted thereunder, shall comply with the following:

III. EFFLUENT LIMITATIONS

A. **Technology Based Effluent Limitations:** Each Permittee shall reduce pollutants in the storm water discharges from the MS4 to the maximum extent practicable.

B. **Water Quality-Based Effluent Limitations WQBELs) to Implement the Total Maximum Daily Loads (TMDLs)**

1. **<u>The Middle Santa Ana River (MSAR) Watershed Bacterial Indicator TMDL Interim WQBELs (effective upon adoption of this Order)</u>:**

   a. The Permittees have the option of participating in the programs developed by the MSAR Bacterial Indicator TMDL Taskforce in lieu of developing their own programs. The Permittees shall:

      i. Develop their own watershed-wide monitoring program or participate in the watershed-wide water quality monitoring program (including any future amendments thereto) approved by the Santa Ana Water Board (Resolution No. R8-2007-0046) as per Task 3 of the MSAR-TMDL Implementation Plan. If the Permittees choose to develop their own watershed-wide monitoring program, it

[3] *The provisions in this Order are applicable to urban runoff from the cities of Claremont and Pomona that is discharged to waterbodies tributary to the Middle Santa Ana River. This Order only implements the Bacterial Indicator TMDL for the Middle Santa Ana River Watershed Waterbodies.*

shall be developed and submitted to the Santa Ana Water Board for approval within 60 days of adoption of this Order. The monitoring program shall be implemented by the Permittees within 30 days of approval by the Santa Ana Water Board. If the Permittees participate in the approved monitoring program, the Permittees shall identify specific monitoring locations to characterize discharges from their MS4 systems into the MSAR watershed waterbodies and shall also identify entities that are responsible for conducting the monitoring program.

ii. Submit reports summarizing all relevant data from the watershed-wide water quality monitoring program. Beginning in 2014, the wet season report is due to the Executive Officer by May 31st of each year (for monitoring conducted from November 1st through March 31st) and the dry season report is due to the Executive Officer by December 31st of each year (for monitoring conducted from April 1st through October 31st).

iii. Submit annual report summarizes CBRP implementation activities on November 15 of every year beginning in 2014.

iv. Submit comprehensive reports every three years summarizing the data collected for the preceding 3 year period and evaluating progress towards achieving the urban wasteload allocation by the dates specified in the TMDL. The first report is due to the Executive Officer on February 15, 2016.

2. **Final WQBELs for MSAR Bacterial Indicator TMDL under DRY Weather Conditions:**

a. The final WQBELs for bacterial indicators under Dry Weather Conditions contained in this section shall be achieved no later than December 31, 2015. These final effluent limits shall be considered effective for enforcement purposes on January 1, 2016.

b. The Final WQBELs for MSAR Bacterial Indicator TMDL under Dry Weather conditions shall be developed and implemented in the following manner.

i. The Permittees shall prepare for approval by the Santa Ana Water Board a Comprehensive Bacteria Reduction Plan (CBRP) certified by the two City Managers and describing, in detail, the specific actions that have been taken or will be taken to achieve compliance with the urban wasteload allocation under dry weather conditions (April 1st through October 31st) by December 31, 2015. The CBRP must include:

(a) The specific ordinance(s) adopted to reduce the concentration of indicator bacteria in urban sources.

(b) The specific BMPs implemented to reduce the concentration of indicator bacteria from urban sources and the water quality improvements expected to result from these BMPs.

(c) The specific inspection criteria used to identify and manage the urban sources most likely causing exceedances of water quality objectives for indicator bacteria.

(d) The specific regional treatment facilities and the locations where such facilities will be built to reduce the concentration of indicator bacteria discharged from urban sources and the expected water quality improvements to result when the facilities are complete.

(e) The location to be used for compliance and program effectiveness monitoring.

(f) The scientific and technical documentation used to conclude that the CBRP, once fully implemented, is expected to achieve compliance with the urban wasteload allocation for indicator bacteria by December 31, 2015.

(g) A detailed schedule for implementing the CBRP. The schedule must identify discrete milestones to assess satisfactory progress toward meeting the urban wasteload allocations for dry weather by December 31, 2015. The schedule must also indicate which agency or agencies are responsible for meeting each milestone.

(h) The specific metric(s) that will be established to demonstrate the effectiveness of the CBRP and acceptable progress toward meeting the urban wasteload allocations for indicator bacteria by December 31, 2015.

(i) Detailed descriptions of any additional BMPs planned, and the time required to implement those BMPs, in the event that data from the watershed-wide water quality monitoring program indicate that water quality objectives for indicator bacteria are still being exceeded after the CBRP is fully implemented.

(j) A schedule for developing a CBRP needed to comply with the urban wasteload allocation for indicator bacteria during wet weather conditions (November 1st thru March 31st to achieve compliance by December 31, 2025.

ii. The draft CBRP must be submitted to the Santa Ana Water Board within 60 days of adoption of this Order. The Permittees may submit the plan individually, jointly or through a collaborative effort with other urban Dischargers such as the existing MSAR-TMDL Task Force. Santa Ana Water Board staff will review the document and recommend necessary revisions no more than 30 days after receiving the draft plan. The Permittees must submit the final version of the plan no more than 30 days after receiving the comments from Santa Ana Water Board staff. The Santa Ana Water Board will schedule a public hearing to consider approving the CBRP, as a final water quality-based effluent limitation for the Dry Weather Urban

Wasteload Allocation, no more than 120 days after the final plan is submitted by the Permittees. In approving the CBRP as the final WQBELs, the Santa Ana Water Board shall make a finding that the CBRP, when fully implemented, shall achieve the urban wasteload allocations for indicator bacteria by no later than December 31, 2015.

iii. Once approved by the Santa Ana Water Board, the CBRP shall be incorporated into this Order as the final WQBELs for indicator bacteria under Dry Weather Conditions as enforceable permit limits. Based on BMP effectiveness analysis, the CBRP shall be updated, if necessary. The updated CBRP shall be implemented upon approval by the Santa Ana Water Board.

On December 30, 2010, the MSAR Permittees under the San Bernardino County MS4 Permit submitted a draft CBRP that was subsequently revised on June 28, 2011. On February 10, 2012, the Santa Ana Water Board approved the CBRP. The Santa Ana Water Board, in Resolution No. R8-2012-0016, recognized the CBRP as the final Water Quality Based Effluent Limitations for bacterial indicators during dry season. To save resources and time and to ensure consistency, the cities of Claremont and Pomona are encouraged to adopt essential elements of the approved CBRP.

c. Should the process set forth in subdivision, b, of this section not be completed by December 31, 2015, then the urban wasteload allocations for dry weather conditions specified in the MSAR Bacterial Indicator TMDL shall become the final numeric WQBELs for indicator bacteria in Dry Weather Conditions, effective January 1, 2016 as follows:

i. <u>Wasteload Allocation for Fecal Coliform from Urban Sources in Dry Weather Conditions (April 1st through October 31st)</u>[4]

5-sample/30-day logarithmic mean less than 180 organisms/100mL and not more than 10% of the samples exceed 360 organisms/100mL for any 30-day period.

ii. <u>Wasteload Allocation for E. Coli from Urban Sources in Dry Weather Conditions (April 1st through October 31st)</u>

5-sample/30-day logarithmic mean less than 113 organisms/100 mL and not more than 10% of the samples exceed 212 organisms/100mL for any 30-day period.

[4] *The fecal coliform wasteload allocation will become ineffective upon replacement of fecal coliform water contact recreational objectives by e.coli objectives in the Basin Plan.*

3. Final WQBELs for MSAR Bacterial Indicator TMDL under WET Weather Conditions (effective Jan. 1, 2026)

In the event this Order is still in effect on December 31, 2025, and the Regional Board has not adopted alternative final water quality-based effluent limits for wet weather conditions by that date, then the urban wasteload allocations specified in the MSAR-TMDL for wet weather conditions (November 1st through March 31st) will automatically become the final numeric water quality-based effluent limits for the Permittees on January 1, 2026.

IV. PROVISIONS

A. Standard Provisions

1. The Dischargers shall comply with all Standard Provisions included in Attachment A of this Order in accordance with 40 CFR 122.41 and 122.42 and the following additional provisions:

    a. Neither the treatment nor the discharge of waste shall create, or threaten to create, a nuisance or pollution as defined by Section 13050 of the California Water Code.

    b. The Dischargers' key operating personnel shall be familiar with the contents of this Order.

    c. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.

    d. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing the regulated discharges may subject the Dischargers to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject the Dischargers to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.

    e. In the event the Dischargers do not comply or will be unable to comply for any reason, with any effluent limitation related to the bacterial wasteload allocation of this Order, the Dischargers shall notify the Santa Ana Water Board. All noncompliance that may have an immediate impact on human health or the environment shall be reported by telephone (951) 782-4130 or by email to: info8@waterboards.ca.gov within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within five days, unless the Santa Ana Water Board waives confirmation. The written notification

shall state the nature, time, duration, and cause of noncompliance, and shall describe the measures being taken to remedy the current noncompliance and, prevent recurrence including, where applicable, a schedule of implementation. Other noncompliance requires written notification as above at the time of the normal monitoring report.

2. This Order may be reopened and modified, revoked and reissued, or terminated in accordance with the provisions of 40 CFR 122.44, 122.62, 122.63, 122.64, 124.5, 125.62 and 125.64 for cause including, but not limited to, the following:

   a. Violation of any terms or conditions of this Order;

   b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts;

   c. Endangerment to human health or the environment resulting from the permitted activity;

   d. To address changed conditions identified in required reports;

   e. To incorporate provisions as a result of future amendments to the Basin Plan, such as a new or revised water quality objective or the adoption or amendment of a TMDL, new or revised State Plans and Policies, new or revised USEPA regulations and guidance, new effluent limitations; or

   f. If, on the basis of any data, the Santa Ana Water Board determines that continued discharges may cause unreasonable degradation of water quality.

3. If an effluent standard or discharge prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307 (a) of the Clean Water Act for a toxic pollutant which is present in the discharge, and such standard or prohibition is more stringent than any limitation for that pollutant in this Order, this Order may be modified or revoked and reissued to conform to the effluent standard or discharge prohibition.

4. The Dischargers shall file with the Santa Ana Water Board a Report of Waste Discharge at least 180 days before making any material change in the character, location, or volume of the discharge. A material change includes, but is not limited to, the following:

   a. Significantly changing the disposal method or location, such as changing the disposal to another drainage area or water body.

   b. Significantly changing the method of treatment.

B. Public Review

All documents submitted to the Santa Ana Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552 (as amended)) and the Public Records Act (Cal. Government Code § 6250 et seq.). All documents submitted to the Santa Ana Water Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment. Any formal determination or approval made by the Santa Ana Water Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Santa Ana Water Board. A Permittee(s) or a member of the public may request such review within 30 days of the notification of formal determination or approval by the Executive Officer.

C. Enforcement

Consistent with state and federal regulations and the Designation Agreement, the Santa Ana Water Board will take enforcement actions related to violations of the Santa Ana Water Board Permit.

D. Monitoring and Reporting Program Requirements (MRP)

The Dischargers shall comply with the Monitoring and Reporting Program, and future revisions thereto, in Attachment B of this Order. This monitoring and reporting program may be modified by the Executive Officer at any time during the term of this Order, and may include an increase in the number of parameters to be monitored, the frequency of the monitoring or the number and size of samples to be collected. Any increase in the number of parameters to be monitored, the frequency of the monitoring or the number and size of samples to be collected may be reduced back to the levels specified in the original monitoring and reporting program at the discretion of the Executive Officer.

V. COMPLIANCE DETERMINATION

Compliance determinations shall be based on available analyses for the time interval associated with the effluent limitation. There are specific requirements for data collection and analyses for MSAR Bacterial Indicator TMDLs. These are specified in the Monitoring and Reporting Program No. R8-2013-0043. Compliance determinations for the TMDLs monitoring shall be as specified in the approved monitoring program for the MSAR Bacterial Indicator TMDLs. Where only one sample analysis is available in a specified time interval (e. g., monthly or weekly average), that sample shall serve to characterize the discharge for the entire interval. If quarterly sample results show noncompliance with the average monthly limit and that sample result is used for compliance determinations for each month of the quarter, then three separate violations of the average monthly limit shall be deemed to have occurred.

ATTACHMENT A – STANDARD PROVISIONS

I. STANDARD PROVISIONS – PERMIT COMPLIANCE

A. Duty to Comply

1. The Dischargers must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application [*40 CFR §122.41(a)*].

2. The Dischargers shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement [*40 CFR §122.41(a)(1)*].

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Dischargers in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order [*40 CFR §122.41(c)*].

C. Duty to Mitigate

The Dischargers shall take all reasonable steps to minimize or prevent any discharge in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment [*40 CFR §122.41(d)*].

D. Proper Operation and Maintenance

The Dischargers shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Dischargers to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by the Dischargers only when necessary to achieve compliance with the conditions of this Order [*40 CFR §122.41(e)*].

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges [*40 CFR §122.41(g)*].

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations [*40 CFR §122.5(c)*].

F. Inspection and Entry

The Dischargers shall allow the Los Angeles Water Board, Santa Ana Water Board, State Water Resources Control Board (State Water Board, collectively referred as the Water Boards), United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to [*40 CFR §122.41(i)*] [*CWC 13383(c)*]:

1. Enter upon the Dischargers' premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order [*40 CFR §122.41(i)(1)*];

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order [*40 CFR §122.41(i)(2)*];

3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order [*40 CFR §122.41(i)(3)*];

4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location [*40 CFR §122.41(i)(4)*].

G. Bypass

1. Definitions

   a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility [*40 CFR §122.41(m)(1)(i)*].

   b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production [*40 CFR §122.41(m)(1)(ii)*].

2. Bypass not exceeding limitations – The Dischargers may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance, I.G.3, I.G.4, and I.G.5 below [*40 CFR §122.41(m)(2)*].

3. Prohibition of bypass – Bypass is prohibited, and the Santa Ana or the Los Angeles Water Board may take enforcement action against a Dischargers for bypass, unless [*40 CFR §122.41(m)(4)(i)*]:

   a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage [*40 CFR §122.41(m)(4)(A)*];

   b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance [*40 CFR §122.41(m)(4)(B)*]; and

   c. The Dischargers submitted notice to the Los Angeles and the Santa Ana Water Boards as required under Standard Provisions – Permit Compliance, I.G.5 below [*40 CFR §122.41(m)(4)(C)*].

4. The Los Angeles or the Santa Ana Water Board may approve an anticipated bypass, after considering its adverse effects, if the Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above [*40 CFR §122.41(m)(4)(ii)*].

5. Notice

   a. Anticipated bypass. If the Dischargers know in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass [*40 CFR §122.41(m)(3)(i)*].

   b. Unanticipated bypass. The Dischargers shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice) [*40 CFR Section 122.41(m)(3)(ii)*].

H. Upset

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [*40 CFR §122.41(n)(1)*].

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review [*40 CFR Section 122.41(n)(2)*].

2. Conditions necessary for a demonstration of upset. The Dischargers who wish to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that [*40 CFR §122.41(n)(3)*]:

   a. An upset occurred and that the Dischargers can identify the cause(s) of the upset [*40 CFR §122.41(n)(3)(i)*];

   b. The permitted facility was, at the time, being properly operated [*40 CFR §122.41(n)(3)(i)*];

   c. The Dischargers submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) [*40 CFR Section 122.41(n)(3)(iii)*]; and

   d. The Dischargers complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above [*40 CFR §122.41(n)(3)(iv)*].

3. Burden of proof. In any enforcement proceeding, the Dischargers seeking to establish the occurrence of an upset has the burden of proof [*40 CFR §122.41(n)(4)*].

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Dischargers for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition [*40 CFR §122.41(f)*].

B. Duty to Reapply

If the Dischargers wish to continue an activity regulated by this Order after the expiration date of this Order, the Dischargers must apply for and obtain a new permit [*40 CFR §122.41(b)*].

C. Transfers

This Order is not transferable to any person except after notice to the Santa Ana Water Board. The Santa Ana Water Board may require modification or revocation and reissuance of the Order to change the name of the Dischargers and incorporate such other requirements as may be necessary under the CWA and the CWC [*40 CFR §122.41(l)(3)*] [*40 CFR §122.61*].

III. STANDARD PROVISIONS – MONITORING

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [*40 CFR §122.41(j)(1)*].

B. Monitoring results must be conducted according to test procedures under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [*40 CFR §122.41(j)(4)*] [*40 CFR §122.44(i)(1)(iv)*].

IV. STANDARD PROVISIONS – RECORDS

A. The Dischargers shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Santa Ana Water Board Executive Officer at any time [*40 CFR §122.41(j)(2)*].

B. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements [*40 CFR §122.41(j)(3)(i)*];
2. The individual(s) who performed the sampling or measurements [*40 CFR §122.41(j)(3)(ii)*];
3. The date(s) analyses were performed [*40 CFR §122.41(j)(3)(iii)*];
4. The individual(s) who performed the analyses [*40 CFR §122.41(j)(3)(iv)*];
5. The analytical techniques or methods used [*40 CFR §122.41(j)(3)(v)*]; and
6. The results of such analyses [*40 CFR §122.41(j)(3)(vi)*].

C. Claims of confidentiality for the following information will be denied [*40 CFR §122.7(b)*]:

1. The name and address of any permit applicant or Dischargers [*40 CFR §122.7(b)(1)*]; and
2. Permit applications and attachments, permits and effluent data [*40 CFR §122.7(b)(2)*].

V. STANDARD PROVISIONS – REPORTING

A. Duty to Provide Information

The Dischargers shall furnish to the Water Boards or USEPA within a reasonable time, any information which the Water Boards or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Dischargers shall also furnish to the Water Boards or USEPA copies of records required to be kept by this Order [*40 CFR §122.41(h)*] [*CWC 13267*].

B. Signatory and Certification Requirements

1. All applications, reports, or information submitted to the Water Boards an/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below [*40 CFR Section 122.41(k)*].

2. All permit applications shall be signed by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA) [40 CFR Section 122.22(a)(3)].

3. All reports required by this Order and other information requested by the Water Boards or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above [*40 CFR Section 122.22(b)(1)*];

   b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) [*40 CFR Section 122.22(b)(2)*]; and

   c. The written authorization is submitted to the Water Boards [*40 CFR Section 122.22(b)(3)*].

4. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting V.B.3 above must be submitted to the Water Boards or USEPA prior to or together with any reports, information, or applications, to be signed by an authorized representative [40 CFR Section 122.22(c)].

5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

   "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 fine and imprisonment for knowing violations" [*40 CFR Section 122.22(d)*].

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment B) in this Order [*40 CFR §122.41(l)(4)*].

2. If the Dischargers monitor any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharge monitoring report [*40 CFR §122.41(l)(4)(ii)*].

3. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order [*40 CFR §122.41(l)(4)(iii)*].

D. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date [*40 CFR §122.41(l)(5)*].

E. Twenty-Four Hour Reporting

1. The Dischargers shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Dischargers become aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Dischargers become aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates

and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance [*40 CFR §122.41(l)(6)(i)*].

2. The following shall be included as information that must be reported within 24 hours under this paragraph [*40 CFR §122.41(l)(6)(ii)*]:

   a. Any unanticipated bypass that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(A)*].

   b. Any upset that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(B)*].

3. The Santa Ana Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours [*40 CFR §122.41(l)(6)(iii)*].

F. Planned Changes

The Dischargers shall give notice to the Santa Ana Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when [*40 CFR §122.41(l)(1)*]:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b) [*40 CFR §122.41(l)(1)(i)*]; or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this Order nor to notification requirements under 40 CFR Part 122.42(a)(1) (see Additional Provisions—Notification Levels VII.A.1) [*40 CFR §122.41(l)(1)(ii)*].

G. Anticipated Noncompliance

The Dischargers shall give advance notice to the Santa Ana Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with the requirements in this Order [*40 CFR §122.41(l)(2)].*

H. Other Noncompliance

The Dischargers shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above [*40 CFR Section 122.41(l)(7)*].

I. Other Information

When the Dischargers become aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Water Boards or USEPA, the Dischargers shall promptly submit such facts or information [*40 CFR §122.41(l)(8)*].

VI. STANDARD PROVISIONS – ENFORCEMENT

A. The Water Boards are authorized to enforce the terms of this permit under several provisions of the CWC, including, but not limited to, sections 13385, 13386, and 13387.

VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS

A. Publicly-Owned Treatment Works (POTWs)

All POTWs shall provide adequate notice to the Santa Ana Water Board of the following [*40 CFR Section 122.42(b)*]:

1. Any new introduction of pollutants into the MS4 systems from an indirect discharger that would be subject to Sections 301 or 306 of the CWA if it were directly discharging those pollutants [*40 CFR Section 122.42(b)(1)*]; and

2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of adoption of the Order [*40 CFR Section 122.42(b)(2)*].

3. Adequate notice shall include information on the quality and quantity of effluent introduced into the POTW as well as any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW [*40 CFR Section 122.42(b)(3)*].

(ATTACHMENT B TO ORDER NO. R8-2013-0043)

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

RECEIVING WATERS AND URBAN RUNOFF MONITORING AND REPORTING PROGRAM NO. R8-2013-0043
NPDES NO. CA8000410
FOR THE IMPLEMENTATION
OF BACTERIAL INDICATOR TOTAL MAXIMUM DAILY LOAD (TMDL) FOR THE MIDDLE SANTA ANA RIVER WATERSHED WATERBODIES ISSUED TO THE CITIES OF CLAREMONT AND POMONA

I. GENERAL

A. The monitoring and reporting program ensures that the Permittees are in compliance with requirements and provisions contained in this Order as they relate to the implementation of the Middle Santa Ana River (MSAR) Bacterial Indicator TMDLs. Revisions may be made under the direction of the Executive Officer at any time during the term of this Order, and may include redistribution of monitoring resources to address TMDL needs, a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.

B. All sample collection, handling, storage, and analysis shall be in accordance with 40 CFR Part 136 (latest edition) "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*," promulgated by the USEPA, the guidance being developed by the State Board pursuant to Water Code Section 133383.5, or other methods which are more sensitive than those specified in 40 CFR 136 and approved by the Executive Officer.

C. The Executive Officer is authorized to allow the Permittees to participate in watershed-specific monitoring programs in lieu of or in addition to this monitoring program. In addition, the Permittees are authorized to complement their urban runoff monitoring data with data from other monitoring sources, provided the monitoring conditions and sources are similar to those in the permitted area.

D. The monitoring program referenced and described in this Monitoring and Reporting Program (MRP) includes any monitoring activities where the Permittees plan, manage, implement, participate, or make monetary contributions for, TMDL-related monitoring.

E. As stated in Section III. B. of this Order, the Permittees may develop and implement their own MSAR Bacterial Indicator TMDL monitoring programs in lieu of participating in the regional group effort. If they choose to develop and

implement their own monitoring program, the Permittees must still coordinate monitoring, planning and implementation activities with other entities discharging into the MSAR watershed. All MSAR TMDL monitoring efforts shall conform to the same quality assurance, data management, validation, and verification standards. A single coordinated watershed Quality Assurance Program Plan (QAPP), such as the Middle Santa Ana River Pathogen TMDL – BMP Implementation QAPP, may be used to ensure such conformance, otherwise separate QAPPs must be developed and implemented for this purpose. The Permittees should cooperate, as appropriate, with other MSAR MS4 Permittees (including those in Riverside and San Bernardino Counties) in the development of the QAPP, regional monitoring efforts, creation and maintenance of databases, and special studies.

F. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both [40 CFR 122.41(j)(5)]

G. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

H. The selected water quality monitoring parameters should have a direct relationship to the designated beneficial uses in the receiving waters being monitored.

I. To the extent practicable, all monitoring data and monitoring locations should be integrated into the MSAR GIS database system maintained by the Santa Ana Watershed Project Authority.

II. MSAR BACTERIAL INDICATOR TMDL/ WLA MONITORING

The Permittees shall continue to participate in the MSAR Bacterial Indicator TMDL monitoring program to determine compliance with the waste load allocations (WLAs). This Order requires Permittees to conduct monitoring to determine the effectiveness of the BMPs implemented in reducing pollutant loads and eventually to attain WLAs by the deadlines specified in the TMDL implementation plans.

A. On June 29, 2007, the Santa Ana Water Board adopted Resolution No. R8-2007-0046 approving the MSAR Bacterial Indicator TMDL monitoring plan. On April 18, 2008, the Santa Ana Water Board adopted Resolution No. R8-2008-0044, approving a revised MSAR Bacterial Indicator TMDL monitoring

plan and an urban bacterial indicator source evaluation plan. The MSAR Permittees within the MSAR watershed shall continue to conduct monitoring and source evaluations in accordance with the approved plans and report the findings in accordance with the schedules specified in the approved plans or as updated by subsequent Santa Ana Water Board approved revisions, including the applicable CBRPs.

B. In conformance with Task 3 of the TMDL Implementation Plan contained in Resolution R8-2005-0001, the Permittees shall individually, or in conjunction with the MSAR TMDL Task Force, prepare a triennial report summarizing the data collected for the preceding 3 year period and evaluating compliance with the WLAs. The first report shall be due February 15, 2016.

C. The Permittees shall conduct monitoring and reporting consistent with Section III.B. of this Order to evaluate the effectiveness of bacterial source reduction activities implemented in the watershed and determine their progress towards attaining compliance with the interim WQBELs, and final BMP-based WQBELs, if approved, or the final numeric WQBELs/WLAs.

III. RECORD KEEPING REQUIREMENTS

All monitoring activities shall meet the following requirements:

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [40 CFR 122.41(j)(1)]. Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality in the case of storm channels and flow quality in the case of streams and lakes. Representative sampling also includes development of a testable hypothesis, appropriate site selection, applicable and accepted sampling methodologies, laboratory methods, and frequency of sampling.

B. The Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports prepared as per this MRP and records of all data used to complete the Report of Waste Discharge and annual reports for a period of at least five years from the date of the sample, measurement, report, or application. This period may be extended by request of the Santa Ana Water Board or USEPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge [40 CFR 122.41(j)(2), CWC section 13383(a)].

C. Records of monitoring information shall include [40 CFR 122.41(j)(3)]:
   a. The date, exact place, and time of sampling or measurements;
   b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;
d. The individual(s) who performed the analyses;
e. The analytical techniques or methods used; and
f. The results of such analyses.

D. Calculations for all effluent limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this MRP [40 CFR 122.41(l)(4)(iii)].

E. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both [40 CFR 122.41(k)(2)].

IV. REPORTING SCHEDULE

All reports required by this Order shall be submitted to the Executive Officer in accordance with the following schedule:

Permit Section No.	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION OR FREQ.	REPORT DUE DATE
III.B.1.a.ii	MSAR Permittees shall submit reports for the MSAR watershed-wide monitoring program for wet and dry season respectively	May 31 and Dec 31	Starting in 2013, and annually thereafter
III.B.1.a.iv	MSAR Permittees shall submit comprehensive reports for all MSAR watershed monitoring program activities	Feb 15	Starting in 2016 and every three years thereafter
III.B.1.a.iii	MSAR Permittees shall report the CBRP annual activities and/or changes in accordance with MSAR-TMDL implementation program	Nov 15	Starting in 2014 and annually thereafter
III.B.2.b.ii	MSAR Permittees shall submit the draft CBRP to achieve compliance for Dry Weather Conditions	60 days after adoption of this order	
III.B.2.b.ii	MSAR Permittees shall submit Final version of CBRP	30 days after receiving comments from the Santa Ana Water Board	

Date:_____ Ordered by_____

Kurt V. Berchtold
Executive Officer

(Attachment C to Order No. R8-2013-0043)
FACT SHEET
For
ORDER NO. R8-2013-0043
NPDES NO. CA8000410
Bacterial Indicator TMDL Implementation for the Cities of Claremont and Pomona

This Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of Order No. R8-2013-0043.

The Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for dischargers in California. Only those sections or subsections of the Order that are specifically identified as "not applicable" have been determined not to apply to these Dischargers. Sections or subsections of this Order not specifically identified as "not applicable" are fully applicable to these Dischargers.

I. DISCHARGERS/FACILITY INFORMATION

Table 1. Dischargers/Facility Information

Dischargers (Permittees)	**The Cities of Claremont and Pomona**
Dischargers Legally Responsible Officer	**City of Claremont: Loretta Mustafa** **City of Pomona: Julie Carver**
Mailing Address	**City of Claremont: City Engineer, City of Claremont, 207 Harvard Avenue, Claremont, CA 91711** **City of Pomona: Environmental Programs Coordinator, 505 South Garey Avenue, Pomona, CA 91766**
Name of Facility	**Municipal Separate Storm Sewer Systems (MS4) Discharging Wastes Containing Bacteria into the Middle Santa Ana River Watershed Waterbodies**
Facility Location	**MS4 systems located within the Cities of Claremont and Pomona that are tributary to waterbodies within the Santa Ana Region. (Los Angeles and San Bernardino Counties)**
Type of Facility	**Municipal Separate Storm Sewer Systems**
Billing Address	**Same as mailing address**
Facility Contact	**Same as Dischargers Legally Responsible Officer**
Type of Facility	**MS4**
Major or Minor Facility	**Minor**

Threat to Water Quality	**3**
Complexity	**C**
Pretreatment Program	**No**
Reclamation Requirements	**No**
Facility Permitted Flow	**Storm water, no flow limitations**
Facility Design Flow	**Storm water, no design flow; most MS4 facilities are designed for a 100-year frequency storm flow.**

This is a National Pollutant Discharge Elimination System (NPDES) permit developed for the sole purpose of implementing the bacteria indicator total maximum loads (TMDLs) for the Middle Santa Ana River (MSAR) Watershed Waterbodies.

II. REGULATORY BASIS

A. Applicable Federal Laws and Regulations:

1. Clean Water Act (CWA) and Code of Federal Regulations (CFR):

Section 402(p) of the Clean Water Act (USC §1342(p)) and its implementing regulations adopted by the United States Environment Protection Agency (USEPA) as codified in Code of Federal Regulations, Title 40, Parts 122, 123, and 124 (40 CFR 122, 123 & 124) require that storm water runoff (also referred to as urban runoff; urban runoff includes both storm water and authorized non-storm water runoff) from municipal separate storm sewer systems (MS4s) be regulated under an NPDES permit. This Order is only to regulate the discharge of bacterial indicators in urban runoff from the Dischargers' MS4 systems to waterbodies within the jurisdiction of the Santa Ana Water Board that are impaired and for which Bacterial Indicator TMDL ha been adopted. The TMDL includes wasteload allocations for the Dischargers.

Impaired waterbodies are where the designated beneficial uses are not met and the water quality objectives are being exceeded. Section 303(d) of the Clean Water Act requires that these waterbodies be listed as impaired under Section 303(d). TMDLs must be established for Section 303(d) listed waterbodies. The TMDL is the total amount of the problem pollutant that can be discharged while water quality standards in the receiving water are attained, i.e., water quality objectives are met and the beneficial uses are protected. It is the sum of the individual wasteload allocations (WLA) for point sources, load allocations (LA) for non-point sources and natural background sources, with a margin of safety. Resolution No. R8-2005-0001 established the Bacterial Indicator TMDL for the MSAR watershed waterbodies. The TMDL is the basis for limitations established in this Order.

In *Defenders of Wildlife, et al v. Browner*, No. 98–71080 (9th Circuit, October 1999), the Court held that the CWA does not require "strict compliance" with State water

quality standards for MS4 permits under section 301(b)(1)(C), but that at the same time, the CWA does give EPA discretion to incorporate appropriate water quality-based effluent limitations under another provision, CWA section 402(p)(3)(B)(iii). Federal regulations (40 CFR 122.44(d)(1)(vii)(B) require inclusion of effluent limits that are "consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA." USEPA's November 22, 2002 and November 12, 2010 memorandums regarding implementation of TMDLs in storm water permits provides that the water quality-based effluent limits could be expressed as numeric effluent limits or as best management practices (BMP) necessary to achieve the wasteload allocation by the target dates. Consistent with these guidance documents, this Order includes a process for developing a BMP-based approach, which, if adopted by the Santa Ana Water Board prior to the compliance date(s) specified in the associated TMDL Implementation Plan, shall become the final water quality-based effluent limitation(s). Permittees are required to submit a BMP-based comprehensive plan (comprehensive bacteria reduction plan, see below) describing the proposed BMPs and the documentation demonstrating that the BMPs are expected to attain the WLAs by the compliance dates when implemented. Once the Santa Ana Water Board approves this comprehensive plan, the plan would be considered as the final water quality-based effluent limit that is consistent with the WLAs. If the Santa Ana Water Board does not approve the comprehensive plan prior to the compliance date(s), the WLAs will become the final water quality-based effluent limits on the applicable compliance date and will remain in effect until a BMP-based comprehensive plan is approved by the Santa Ana Water Board. The comprehensive plan will be updated, as necessary, to reflect evaluations of the effectiveness of the BMPs, including evaluations presented in the interim reports.

If water quality standards in the impaired receiving waters are met through implementation of appropriate control measures, this would constitute compliance with the TMDL requirements specified in this Order.

2. Anti-degradation Policies (federal and state)

Federal anti-degradation policy is applicable to all NPDES permits. 40 CFR 131.12 requires that State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Resources Control Board (State Water Board) established California's antidegradation policy in State Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Santa Ana Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with the antidegradation provisions of 40 CFR 131.12 and State Board Resolution No. 68-16 as the Order requires the Dischargers to implement programs and policies necessary to improve water quality; the Order does not allow any degradation of water quality.

3. Anti-backsliding Requirements:

The anti-backsliding policy prohibits backsliding in NPDES permits. Sections 402(o)(2) and 303(d)(4) of the Clean Water Act and federal regulations of 40 CFR 122.44(*l*) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. This is a new NPDES permit. Therefore, the anti-backsliding provisions are not applicable to this Order.

4. Monitoring Requirements (federal and state):

Water Code Sections 13267 and 13383 authorize the Santa Ana Water Board to require technical and monitoring reports. 40 CFR 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement State and federal requirements. Monitoring and Reporting Program R8-2013-0043 (Attachment B) is consistent with these state and federal requirements.

5. Standard Provisions (federal and state):

Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment A. The Discharger must comply with all standard provisions and with those additional conditions that are applicable under section 122.42. The Santa Ana Water Board has also included in this Order special provisions applicable to the Dischargers.

B. Applicable State Laws and Regulations

1. California Water Code:

The Porter Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000) incorporates the federal Clean Water Act (Chapter 5.5 of the Porter Cologne Water Quality Control Act) and it provides the authority to issue NPDES permits to the State Water Board and the regional water boards (collectively the Water Boards).

2. Water Quality Control Plans and Policies:

The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) incorporates all applicable provisions of statewide Water Quality Control Plans and

Policies adopted by the State Water Board. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Santa Ana Region. The TMDLs are an integral part of the Basin Plan. The Basin Plan is the basis for the Santa Ana Water Board's regulatory programs.

Storm water flows that are discharged from the Dischargers' MS4s to the Santa Ana River Watershed waterbodies are tributary to various water bodies. The beneficial uses of these water bodies include municipal and domestic supply, agricultural supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, limited warm freshwater habitat, wildlife habitat and preservation of rare, threatened or endangered species. The ultimate goal of this Order is to protect the beneficial uses of the receiving waters.

3. *California Environmental Quality Act (CEQA)*

Under CWC section 13389, the action to adopt these waste discharge requirements, which is also an NPDES permit, is exempt from the provisions of CEQA, Public Resources Code section 21000 et seq. (County of Los Angeles v. California State Water Resources Control Board (2006) 143 Ca. App.4th 985. Mod. (Nov 6,2006, B184034) 50 Cal.Rptr.3d 619, 632-636).

4. California Toxics Rule and State Implementation Plan (not applicable):

The California Toxics Rule (CTR) and the California Toxics Rule Implementation Plan provides water quality criteria for priority pollutants. Since this Order only implements the MSAR Bacterial Indicator TMDL, these rules are not applicable.

III. DESIGNATION AGREEMENT UNDER WATER CODE SECTION 13228

The USEPA delegated the authority to issue NPDES permits to the Water Boards. The Federal laws and regulations require that the NPDES permits incorporate wasteload allocations consistent with the assumptions and requirements of approved TMDLs. However, the Dischargers in this Order are located within the geographic boundaries of the Los Angeles Water Board. So the two regional boards entered into a designation agreement to facilitate permitting of these entities by the Santa Ana Water Board (Attachment D).

The cities of Claremont and Pomona (jointly referred to as the Dischargers or the Permittees) are located within the Los Angeles Water Board's jurisdiction. The storm water runoff from some portions of these cities flows into waterbodies within the Santa Ana Water Board's jurisdiction. The discharges into the Santa Ana Water Board's jurisdiction are to San Antonio Creek and Chino Creek which are middle Santa Ana River watershed waterbodies. Chino Creek is impaired due to high levels of bacteria and is included on the Clean Water Act Section 303(d) list as an impaired water.

Federal regulations require that a total maximum daily load (TMDL) be established for each 303(d) listed waterbody for each of the pollutants causing impairment. Accordingly, the Santa Ana Water Board developed TMDLs for bacterial indicators for the middle Santa Ana River watershed waterbodies (MSAR Bacterial Indicator TMDL). The MSAR Bacterial Indicator TMDL included wasteload allocations for urban runoff and names the cities of Claremont and Pomona as municipal dischargers subject to the wasteload allocations in the TMDL. Other municipal dischargers with a wasteload allocation under the MSAR Bacterial Indicator TMDL are located within Riverside County and San Bernardino County. The municipal dischargers that are within Riverside County are regulated under the Santa Ana Water Board's Riverside County MS4 Permit, Order No. R8-2010-0033 (Riverside County MS4 Permit). The municipal dischargers that are within San Bernardino County are regulated under the Santa Ana Water Board's San Bernardino County MS4 Permit, Order No. R8-2010-0036 (San Bernardino County MS4 Permit).

Urban runoff from the cities of Claremont and Pomona are currently regulated under Los Angeles Water Board Order No. R4-2012-0175, NPDES No. CAS004001 (LA MS4 Permit). The LA MS4 Permit included requirements for the Dischargers to comply with the MSAR TMDL requirements; however, the Permit also included a statement that those provisions in the LA MS4 Permit become null and void if the Santa Ana Water Board adopted an NPDES permit for the same purpose. The LA MS4 Permit further states that any permit adoption for implementing the MSAR TMDL by the Santa Ana Water Board should be pursuant to a valid and enforceable designation agreement between the two regional boards.

On May 31, 2013, the Los Angeles Water Board and the Santa Ana Water Board entered into a designation agreement per California Water Code Section 13228 (Attachment D). This Order is consistent with the designation agreement and implements the MSAR TMDL. This is also consistent with the LA MS4 Permit.

IV. TMDL REQUIREMENTS IN NPDES PERMITS

Code of Federal Regulations (CFR) require inclusion of effluent limits that are "consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA." 40 CFR 122.44(d)(1)(vii)(B). Federal guidelines[1] provide that wasteload allocations could be expressed as numeric water quality-based effluent limits or as control measures and strategies designed to achieve the wasteload allocation (BMP-based approach). This Order requires the Dischargers to develop and implement BMPs designed to reduce bacteria in urban runoff to achieve applicable wasteload allocations by the compliance date in the approved TMDL. If water quality standards in the impaired receiving waters are met through implementation of appropriate control measures, this would constitute

[1] Total Maximum Daily Loads and Stormwater (http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/stormwater_index.cfm) TMDLS to Stormwater Permits Handbook, USEPA, November 2008 (Draft)

compliance with the effluent limits specified in this Order. In the absence of an approved comprehensive bacteria reduction plan, the wasteload allocation in the TMDL becomes the numeric water quality-based effluent limit.

The comprehensive bacteria reduction plan should include control measures, strategies, monitoring programs, interim pollutant reduction goal, interim and final assessment tools, and a schedule for implementation. The Plan should be designed to achieve the wasteload allocation by the compliance date in the TMDL. If the interim assessment indicates that the wasteload allocation will not be met by the compliance date, additional control measures or corrective steps must be incorporated to achieve the goal. The requirements specified in this Order are similar to the MSAR Bacterial Indicator TMDL requirements in the San Bernardino County MS4 Permit.

V. COMPREHENSIVE BACTERIA REDUCTION PLANS (CBRPs) AS WATER QUALITY BASED EFFLUENT LIMITATIONS

The stakeholders in the Middle Santa Ana River Watershed established a taskforce to address bacterial indicator problems in the watershed. The Riverside and San Bernardino County MS4 Permits required the permittees under those Permits to develop a BMP-based comprehensive bacteria reduction plan. The MSAR Bacterial Indicator TMDL Taskforce developed such an approach that was adopted by the Santa Ana Water Board. On February 10, 2012, the Santa Ana Water Board approved Resolution No. R8-2013-0016 that incorporated the Comprehensive Bacteria Reduction Plan (CBRP) into the San Bernardino County MS4 Permit as the final water quality-based effluent limitation for bacterial indicators during dry weather. A consistent CBRP was approved for Riverside County.

The Permittees are required to submit a BMP-based comprehensive bacteria reduction plan (comprehensive plan) describing the proposed BMPs and the documentation demonstrating that the BMPs are expected to attain the WLAs by the compliance dates when implemented. Once the Santa Ana Water Board approves this comprehensive plan, this Order will be amended to include the comprehensive plan as the final water quality-based effluent limit that is consistent with the WLAs. If the Santa Ana Water Board does not approve the comprehensive plan prior to the compliance date(s), the WLAs will become the final water quality-based effluent limits on the applicable compliance date and will remain in effect until a BMP comprehensive plan is approved by the Santa Ana Water Board. The comprehensive plan will be updated, as necessary, to reflect evaluations of the effectiveness of the BMPs, including evaluations presented in the annual reports.

The Permittees have the option of developing a comprehensive plan consistent with the CBRPs that have already been approved by the Santa Ana Water Board.

VI. COMPLIANCE WITH NON-MSAR BACTERIAL INDICATOR TMDL PROVISIONS

Since this Order is only to implement the MSAR Bacterial Indicator TMDLs, it has incorporated the requirements of the LA MS4 Permit for those provisions that are not related to the TMDL implementation. This is to minimize duplicate regulatory approaches by the Water Boards.

PUBLIC HEARING

The Santa Ana Water Board will hold a public hearing (scheduled to start at 9:00 a,m,) regarding the proposed waste discharge requirements on September 13, 2013 at the City Council Chambers, City of Loma Linda, 25541 Barton Road, Loma Linda, CA. A Notice of Public Hearing was posted on the Santa Ana Water Board's website. Further information regarding the conduct and nature of the public hearing concerning these waste discharge requirements may be obtained by writing or visiting the Santa Ana Water Board office, 3737 Main Street, Suite 500, Riverside, CA 92501-3348. This and other information are also available at the website at: www.waterboards.ca.gov/santaana. A Notice of Public Hearing is also posted on the Regional Board's website at:

http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/san_bernardino_permit.shtml.

INFORMATION AND COPYING

Persons wishing further information may write to the above address or call Hope Smythe at (951) 782-4493 or email at hsmythe@waterboards.ca.gov. Copies of the proposed waste discharge requirements, and other documents (other than those which the Executive Officer maintains as confidential) are available at the Santa Ana Water Board office for inspection and copying by appointment scheduled between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday (excluding holidays).

REGISTER OF INTERESTED PERSONS

Any person interested in a particular application or group of applications may leave his/her name, address, and phone number as part of the file for an application. Copies of the final waste discharge requirements will be emailed to all interested parties.

E-mail registration:

http://www.waterboards.ca.gov/resources/email_subscriptions/reg8_subscribe.shtml

In addition to the Permittees, comments were solicited from the following agencies and/or persons:

U. S. Environmental Protection Agency – John Kemmerer/Eugene Bromley (W-5-1)
US Army District, Los Angeles, Corps of Engineers - Permits Section

NOAA, National Marine Fisheries Service
US Fish and Wildlife Service – Carlsbad
U.S. Department of Agriculture - Forest Services, San Bernardino County National Forest
California Department of Transportation (Cal Trans), District 8, Paul Lambert
California Department of Parks and Recreation - Chino Hills State Park
Inland Valley Development Agency, San Bernardino International Trade Center and Airport
State Water Resources Control Board – David Rice, Office of the Chief Counsel
State Water Resources Control Board – Diana Messina, Division of Water Quality
State Department of Water Resources - Glendale
California Regional Water Quality Control Board, Los Angeles Region (4) – Executive Officer
California Department of Fish and Wildlife - Ontario
California Department of Public Health – San Bernardino
California Department of Parks and Recreation - Perris
South Coast Air Quality Management District - Diamond Bar
Riverside County Flood Control District – Jason Uhley
Orange County Public Works Department - Chris Crompton/Richard Boone

AEI/CASC – Jeff Endicott
URS/Greiner - Bob Collacott
Building Industry Association – Environmental Affairs
Southern California Association of Governments (SCAG), Los Angeles
San Bernardino Associated Governments (SANBAG)
Santa Ana Watershed Project Authority - Celeste Cantu
Inland Empire West Resource Conservation District - General Manager

Lawyers for Clean Water – Daniel Cooper
Orange County Coastkeeper – Garry Brown
Inland Empire Waterkeeper – Meagan Brousseau
Sierra Club, San Gorgonio Chapter
Natural Resources Defense Council (NRDC) – Noah Garrison
Cousteau Society
Audubon Sea & Sage Chapter

Big Bear Municipal Water District
Inland Empire Utilities Agency
Cucamonga Valley Water District
East Valley Water District
Monte Vista Water District
San Bernardino Valley Municipal Water District
West San Bernardino County Water District
Yucaipa Valley Water District Orange County Water District
Metropolitan Water District
Western Municipal Water District

Attachment D to Order No. R8-2013-0043

CALIFORNIA
Water Boards

Los Angeles Regional Water Quality Control Board

CRWQCB - REGION 8
HAS

MAY 30 2013

May 31, 2013

Julie Carver
Environmental Programs Coordinator
505 South Garey Avenue
Pomona, CA 91766

Loretta Mustafa
Senior Civil Engineer
207 Harvard Avenue
Claremont, CA 91711

Re: Designation of Authority over Discharges of Bacteria from the Municipal Separate Storm Sewer Systems of the Cities of Pomona and Claremont Regulated by the Middle Santa Ana River Watershed Bacterial Indicator TMDL

Dear Ms. Carver and Ms. Mustafa:

This letter constitutes the written agreement of the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board), pursuant to California Water Code section 13228, subdivision (a) and the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), to designate the Santa Ana Water Board as the regulator of discharges of bacteria by the Cities of Claremont and Pomona through their municipal separate stormwater sewer systems (MS4s) to receiving waters within the Middle Santa Ana River Watershed. Regulation by the Santa Ana Water Board of discharges of bacteria by the Cities through their MS4s within the Middle Santa Ana River Watershed will include effluent limits that are consistent with the assumptions and requirements of the wasteload allocations, including implementation schedules, assigned to the Cities by the Middle Santa Ana River Watershed Bacterial Indicator Total Maximum Daily Load (Santa Ana Bacteria TMDL).

Background

The Cities of Claremont and Pomona (Cities) are located within the Los Angeles Water Board's geographic jurisdictional boundaries. A portion of both Cities is located within the San Gabriel River Watershed and the remaining portion of both Cities is located in the Middle Santa Ana River Watershed. Approximately 12 square miles (mi^2) and 8 mi^2 of the Cities of Pomona and Claremont, respectively, are within the Middle Santa Ana River Watershed, and drain to San Antonio Creek and Chino Creek. Only the smaller portion of the Middle Santa Ana River Watershed that is encompassed by the Cities' boundaries, and the Los Angeles County boundaries, is located within the jurisdictional boundaries of the Los Angeles Water Board. The remainder and majority of the Middle Santa Ana River Watershed is located within the jurisdictional boundaries of the Santa Ana Water Board.

On August 26, 2005, the Santa Ana Water Board adopted Resolution No. R8-2005-0001, amending the Water Quality Control Plan for the Santa Ana River Basin (Santa Ana River Basin

Plan) to incorporate the Santa Ana Bacteria TMDL. The Santa Ana Bacteria TMDL was subsequently approved by the State Water Resources Control Board, the Office of Administrative Law, and the U.S. Environmental Protection Agency, and became effective on May 16, 2007. Since that time, the Cities of Claremont and Pomona have participated in a TMDL Task Force formed by dischargers subject to the Santa Ana Bacteria TMDL to implement the compliance requirements of the TMDL.

The Santa Ana Bacteria TMDL amended the Santa Ana River Basin Plan to, among other things, incorporate dry season numeric targets and wasteload allocations for fecal coliform and *E. coli* in surface waters in the Middle Santa Ana River Watershed to be met by 2015, wet season numeric targets and wasteload allocations for fecal coliform and *E. coli* in surface waters in the Middle Santa Ana River Watershed to be met by 2025, and an implementation plan requiring dischargers within the Middle Santa Ana River Watershed to meet certain compliance thresholds (i.e., final wasteload allocations) by the deadlines established in the Santa Ana Bacteria TMDL. Clean Water Act Section 303(d) listed water bodies addressed by the TMDL include, among others, Chino Creek reaches 1 and 2. The Santa Ana Bacteria TMDL names the Cities as municipal dischargers subject to the wasteload allocations in the TMDL.

On September 19, 2012 and September 20, 2012, the Cities of Claremont and Pomona, respectively, requested that the Los Angeles Water Board and the Santa Ana Water Board designate the Santa Ana Water Board to regulate all bacteria discharges from the Cities' MS4s to receiving waters located within the Middle Santa Ana River Watershed and implement the wasteload allocations included in the Santa Ana Bacteria TMDL, pursuant to Water Code section 13228.

Attachment R of Order No. R4-2012-0175, NPDES No. CAS004001, 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 (Los Angeles County MS4 Permit), adopted on November 8, 2012, states the following:

Section A of this Attachment R, and Parts V and VI.C of this Order, shall not be applicable to discharges of bacteria through MS4s of the Permittees identified in Attachment K, Table K-8, to receiving waters within the Middle Santa Ana River Watershed that are addressed by the Middle Santa Ana River Watershed Bacterial Indicator TMDLs, Resolution No. R8-2005-0001, established by the Regional Water Quality Control Board, Santa Ana Region (Santa Ana Regional Board), during the effective dates of any NPDES permit that is issued by the Santa Ana Regional Board:

1. *Pursuant to a valid and enforceable designation agreement between this Regional Water Board and the Santa Ana Regional Board under Water Code section 13228, that is applicable to MS4 discharges by the Permittees identified in Attachment K, Table K-8; and*
2. *The designation agreement delegates the Santa Ana Regional Board as the regulator of MS4 discharges by the Permittees identified in Attachment K, Table K-8, to ensure compliance with the Middle Santa Ana River Watershed Bacterial Indicator TMDLs, Resolution No. R8-2005-0001, in satisfaction of the requirements of 40 CFR section 122.44(d)(1)(vii)(B).*

Purpose and Scope of the Designation Agreement

The Los Angeles Water Board and Santa Ana Water Board hereby designate the Santa Ana Water Board as the regulator of discharges of bacteria by the Cities through their MS4s to receiving waters within the Middle Santa Ana River Watershed. This designation agreement satisfies condition B.2 of Attachment R of the Los Angeles County MS4 Permit. The Santa Ana Water Board will issue an NPDES permit to the Cities that regulates the discharge of bacteria through the Cities' MS4s to receiving waters within the Middle Santa Ana River Watershed, pursuant to the authority designated by this agreement. The NPDES permit will include effluent limits consistent with the assumptions and requirements of the wasteload allocations included in the Santa Ana Bacteria TMDL, in satisfaction of the requirements of 40 CFR section 122.44(d)(1)(vii)(B).

Limits of the Designation Agreement

The Cities recognize that they will remain subject to all applicable portions of the Los Angeles County MS4 Permit, except those portions that are exempted by application of Section B of Attachment R. As described in Section B of Attachment R, discharges of bacteria through the Cities' MS4 are regulated by the Los Angeles County MS4 Permit except during the effective dates of an NPDES permit issued by the Santa Ana Water Board pursuant to this designation agreement that is applicable to discharges of bacteria through the Cities' MS4s. Both the Santa Ana and Los Angeles Water Boards have the authority to enforce the terms of any NPDES permit issued to the Cities by the Santa Ana Regional Board pursuant to this designation agreement, if the discharges occur within the Los Angeles Regional Board's geographic jurisdiction.

This agreement is effective on May 31, 2013. The Los Angeles Water Board and the Santa Ana Water Board each reserve the right to terminate this agreement in the future. This agreement may be modified by mutual consent of the Los Angeles Water Board and the Santa Ana Water Board.

Samuel Unger
Samuel Unger
Executive Officer
Los Angeles Regional Board

Kurt Berchtold
Kurt Berchtold
Executive Officer
Santa Ana Regional Board

cc: Nicole Kuenzi, Attorney, Office of Chief Counsel, State Water Board
David Rice, Attorney, Office of Chief Counsel, State Water Board
Shawn Hagerty, Attorney, Best Best & Krieger
J.G. Andre Monette, Attorney, Best Best & Krieger