(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: Loretta Mustafa, Senior Civil Engineer, City of Claremont, 207 Harvard Avenue, Claremont, CA 91711** **City of Pomona: Julie Carver, 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 bacteria 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 a TMDL has 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 TMDLs for the MSAR watershed waterbodies. The TMDLs are the basis for limitations established in this Order.

This Order requires the Dischargers to comply with the wasteload allocations in the TMDL. The NPDES permit should include the wasteload allocation as a water quality-based effluent limitation. 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 Satna 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, industrial service and process supply, groundwater recharge, hydropower generation, water contact recreation, non-contact water recreation, warm freshwater habitat, limited warm freshwater habitat, cold 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 Bacteria TMDL, these rules are not applicable.

III. DELEGATION 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 from 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 delegation agreement to facilitate permitting of these entities by the Santa Ana Water Board.

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 part of the middle Santa Ana River waterbodies. San Antonio and Chino Creeks are impaired due to high levels of bacteria. These waterbodies are listed on the Clean Water Act Section 303(d) as impaired waters. 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 bacteria for the middle Santa Ana River watershed waterbodies (MSAR TMDL). The MSAR TMDL included wasteload allocations for urban runoff. The MSAR TMDL 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 the San Bernardino County. 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 in it 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 as per California Water Code Section 13228. 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 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.

[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)

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 bacteria TMDL requirements in the San Bernardino County MS4 Permit.

V. COMPREHENSIVE BACTERIA REDUCTION PLAN AS THE WATER QUALITY BASED EFFLUENT LIMITATION

The stakeholders in the middle Santa Ana River watershed waterbodies established a taskforce to address bacterial indicator problems in the watershed. The San Bernardino County MS4 Permit required the permittees under that Permit 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 into the San Bernardino County MS4 Permit as the final water quality-based effluent limitation for bacterial indicators during dry weather.

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 comprehensive plan that has 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