



Los Angeles Regional Water Quality Control Board

April 4, 2023

Via Email Only

Permittees of the Ballona Creek Watershed Management Group¹

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

Dear Permittees of the Ballona Creek Watershed Management Group:

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

1) Review of the Watershed Management Program

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

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

¹ Permittees of the Ballona Creek Watershed Management Group include the County of Los Angeles, LACFCO, and the cities of Beverly Hills, Culver City, Inglewood, Los Angeles, Santa Monica, and West Hollywood.

Public Review and Comment

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

Conditions of Approval

Pursuant to Part IX.G.3.a of the Order, the Watershed Management Program and Reasonable Assurance Analysis (RAA) are required to be consistent with the requirements of the Regional MS4 Permit. The Los Angeles Water Board hereby approves the Group's WMP, under the condition that the WMP is revised to address the following requirements:

1. Within the WMP's appendices, errata sheets are provided to describe changes in the June 2021 revised WMP (i.e., Appendix 3.E Updates to Appendices 3.A-3.D and Appendix 4E Updates to Appendices 4.A-4.D). However, it's unclear if the changes listed in the errata sheets are made to the applicable Appendices. Furthermore, it also seems that Appendix 7.D of the WMP completely replaces Appendices 7.A-7.C of the WMP and Appendix 8.C of the WMP, which is a redlined version of Appendix 8.B of the WMP, completely replaces Appendices 8.A and 8.B of the WMP. Section 4 of the WMP also includes redline versions of some figures. Revise the WMP so that if Appendix 7.D of the WMP completely replaces Appendices 7.A-7.C of the WMP, remove Appendices 7.A-7.C from the WMP and revise the entire WMP to reflect any applicable changes. Additionally, since Section 4.5.3.1 of the WMP already includes a general summary of Appendices 8.A-8.C of the WMP, remove Appendices 8.A-8.C from the WMP and its references within the WMP, and revise the WMP per the changes listed in Appendix 8.C of the WMP. Also, update Appendices 3.A-3.D of the WMP to reflect the summary of changes listed Appendix 3.E of the WMP, remove Appendix 3.E of the WMP, and revise the entire WMP to reflect any applicable changes. Likewise, update Appendices 4.A-4.D of the WMP to reflect the summary of changes listed in Appendix 4E of the WMP, remove Appendix 4E of the WMP, and revise the entire WMP to reflect any applicable changes. Additionally, resolve all the redline portions of the WMP to reflect the final language. For any future submittals of the WMP, if the Group wishes to provide errata sheets and/or descriptions of what changes are being made between the old and new versions of the WMP, the Group is welcome to provide that information with the Cover Letter or submit a redlined version of the WMP alongside the clean final version.
2. Some Category 2 WBPCs in Table 3-3 of the WMP are no longer listed on the current 303(d) list. Update the entire WMP for all Category 2 WBPCs and references to the 303(d) list to reflect the 2020-2022 303(d) list.
3. Per Part IX.B.3 of the Order (Water Body-Pollutant Combinations), Category 2 WBPCs are those that are on the current 303(d) list or meet the 303(d) listing

criteria per the State Listing Policy, and Category 3 WBPCs are other WBPCs not already addressed by Category 1 and 2 that have exceedances within the last 5 years. Table 3-3 of the WMP includes additional Category 2 WBPCs that are not listed on the 303(d) list. Based on the monitoring data analysis presented in various tables throughout Appendices 3.A and 3.B of the WMP, the additional Category 2 WBPCs in Table 3-3 of the WMP do not meet the 303(d) listing criteria per the State Listing Policy. Moreover, the data analysis presented in the tables of Appendix 3.B Attachments 1 – 4 is based on historical data that pre-dates the monitoring data collected under the Group's CIMP (originally approved on November 5, 2015) and therefore does not include data from the past 5 years. In contrast, Table 3-3 of the WMP defines Category 2 and 3 as based on exceedances in the last 5 years. Additionally, some Category 2 and 3 WBPCs are listed in Table 3-3 of the WMP as "NS", meaning that there were "No Samples" taken for the last 5 years. In summary, the method used in the WMP to categorize WBPCs as Category 2 and 3 is inappropriate. Firstly, per Part IX.B.1 of the Order (Water Quality Characterization), update the entire data analysis presented in Appendix 3.B Attachments 1-4 to include data from the last 5 years. Then, based on the updated data analysis, if the Group chooses to include additional Category 2 WBPCs that are not on the current 303(d) list but meet the 303(d) listing criteria per the State Listing Policy, update the entire WMP accordingly to include the additional Category 2 WBPCs. Alternatively, remove all Category 2 WBPCs except for those in the current 303(d) list. Additionally, update the entire WMP to remove Category 2 and 3 WBPCs that have no samples taken in the last 5 years.

4. The Santa Monica Bay Beaches Bacteria TMDL (Attachment A to Resolution No. R12-007) removed monitoring site BC-1 from the TMDL. The revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A to Resolution No. R21-001) continues to exclude monitoring site BC-1. Accordingly, Part I in Attachment O of the Order does not include receiving water limitations for monitoring site BC-1 nor do the WQBELs apply. Since no other monitoring locations listed in Part I in Attachment O of the Order fall within the Group's jurisdictional area, the Santa Monica Bay Beaches Bacteria TMDL does not apply to the Group. Revise the WMP accordingly and remove Category 1 bacteria WBPCs for Santa Monica Bay.
5. Multiple tables in the WMP include PAHs for the Ballona Creek Estuary Toxics TMDL and lists them as a Category 1 pollutant. However, per Part V.B in Attachment O of the Order, the Ballona Creek Estuary Toxics TMDL does not include WQBELs and/or receiving water limitations for PAHs. In the WMP, remove PAHs wherever PAHs are referenced as a constituent addressed by the Ballona Creek Estuary Toxics TMDL and/or listed as a Category 1 pollutant. Alternatively, move PAHs to Category 2 WBPCs.
6. Multiple tables in the WMP include selenium for the Ballona Creek Metals TMDL and accordingly lists them as a Category 1 pollutant. However, per Part V.D in Attachment O of the Order, the Ballona Creek Metals TMDL does not include WQBELs and/or receiving water limitations for selenium. In the WMP, remove selenium wherever selenium is referenced as a constituent addressed by the Ballona Creek Metals TMDL and/or listed as a Category 1 pollutant. Alternatively, move selenium to Category 3 WBPCs.

7. For all tables in the WMP that list WBPCs, remove all Category 1B WBPCs (WBPCs with TMDL deadlines beyond the Permit term) and move them to Category 1A (WBPCs with past due or current permit term TMDL deadlines). All TMDLs applicable to the Group have compliance deadlines that have past or are within the current permit term.
8. In Table 3-5 of the WMP, for BC Toxics, add cadmium in the “constituents” column.
9. The WMP references past TMDL compliance schedules (e.g., 2021 for wet weather TMDLs). The revised TMDLs under Resolution No. R21-001 became effective on May 24, 2022. Accordingly, revise the WMP to update all old references of the applicable TMDLs and include the revised compliance schedules, WQBELs, and receiving water limitations per the applicable sections in Attachment O of the Order.
10. Per Part IX.B.7.a of the Order, update Section 2 and Appendices 2.A and 2.B of the WMP to reference the Regional MS4 Permit and accordingly, provide the updated Legal Authority letters.
11. Sections 6.2.5.3 of the WMP states the following: “While control of zinc and *E. coli* has reasonable assurance of addressing other Water Quality Priorities, it is not necessary to fully control zinc and *E. coli* to address the other Water Quality Priorities...As such, if exceedances of metals during dry weather occur during EWMP implementation, then compliance determination should not be based on the status of implementation of zinc and *E. coli* control measures. Instead, compliance determination should be based on evaluation of whether the existing level of implementation for MCMs and control measures (as of June 2015) has been maintained.” Likewise, Section 8.1 of the WMP includes a similar statement. Consistent with Part X of the Order, where compliance determination is based on WMP implementation and/or compliance through monitoring results, revise the last sentence to state that if there are exceedances of other Water Quality Priorities after implementation of zinc and *E. coli* control measures, compliance will be demonstrated through monitoring results. Also revise similar statements in the rest of the WMP accordingly to be consistent.
12. The table title of Table 8-1 of the WMP is “WMP Control Measures to be Assessed for Compliance Determination with BCWVG EWMP if RWLs and WQBELs are not Attained per the Timelines Prescribed in the Permit and EWMP.” This table lists the WMP control measures, MCM implementation, and the Time Schedule Order (TSO) implementation for each weather condition and pollutant combination. This is misleading and does not align with the Regional MS4 Permit provisions. After the final compliance deadlines of the TMDL(s) and the WMP have passed, the Permittee(s) cannot continue to rely on WMP control measures and MCM implementation for compliance determination. Rather, for the final TMDL deadlines that have passed, the Permittee(s) must demonstrate compliance through monitoring results as specified in Part X of the Order (Compliance Determination). However, per Part XI.B.3, Attachment F of the Order (page F-251), the Permittee(s) can be deemed in compliance with final TMDL(s) deadlines that have passed, if: a) there is an approved TSO, or 2) the Permittee(s) is complying with the TMDL-based requirements by retaining all non-stormwater runoff and the volume of stormwater runoff from the 85th percentile 24-hour storm event. Either

- delete Table 8-1 of the WMP or revise it per the permit requirements summarized above.
13. Per Footnote 43 of the WMP, and Table 6.D.7 and subsection “Institutional BMPs” in Appendix 6D of the WMP, the RAA assumes a 5% load reduction of pollutants based on the implementation of baseline MCMs. However, per Part IX.B.8.b of the Order, without a quantitative analysis, this 5% assumed load reduction is not appropriate. Revise the WMP to either provide an appropriate quantitative analysis or remove the 5% assumed load reduction and revise the WMP and RAA accordingly.
 14. The WMP includes the following limiting pollutants: zinc and *E. coli* for wet weather and *E. coli* for dry weather. However, the WMP includes contradictory statements about what set of watershed control measures will address other water quality priorities. For example, in Section 7.2 of the WMP, it states that separate implementation strategies are provided for “Metals and Other Water Quality Priorities and *E. coli*”. But the Table title for Table 7-2 of the WMP is “EWMP Implementation Strategy by Subwatershed for *E. Coli* and Other Water Quality Priorities” and the table description is “Figure 7-2 presents the EWMP Implementation Strategy for metals and other water quality priorities as control measure “density” by subwatershed.” Figure 7-3 of the WMP then only addresses Zinc. Revise the WMP to remove all contradictory statements and clarify that for wet weather, zinc control measures will address the other water quality priorities.
 15. The WMP includes *zinc and E. coli* for wet weather and *E. coli* for dry weather as limiting pollutants but in Sections 4 and 5 of the WMP, there is no distinction between watershed control measures that address zinc and other water quality priorities versus *E. coli*. Furthermore, for both the Ballona Creek Metals and Ballona Creek Bacteria TMDLs, the dry weather final compliance deadlines have passed, and the wet weather final compliance deadline is July 15, 2026. Per Part IX.B.8.f of the Order, provide a rationale of why 2 different limiting pollutants are proposed considering that the proposed watershed control measures and final TMDL deadlines are the same. Alternatively, clarify which watershed control measures in Sections 4 and 5 of the WMP are for Zinc and other water quality priorities versus *E. coli* watershed control measures.
 16. Appendix 3.A of the WMP states that “to define whether or not a pollutant can be addressed within the same time frame as a TMDL pollutant, it is necessary to consider whether the reductions that will be achieved by the control measures implemented for the TMDL pollutant are expected to be sufficient to achieve the needed reductions for the other pollutants.” Per Part IX.B.8.f.ii of the Order, provide further explanation in Section 6.2.5.3 and/or Appendix 3.A of the WMP of why the limiting pollutant groupings can be addressed via similar control measures. Specifically, provide the reductions needed for each WBPC that the WMP addresses.
 17. Sections 6.4.2 and 7 of the WMP propose an interim milestone of 50% wet weather metals reduction by 2023 per the Ballona Creek Metals TMDL. However, the 50% reduction required for the wet weather in the revised Ballona Creek Metals TMDL is a past deadline (January 11, 2016). Likewise, the 75% reduction interim deadline per the revised Ballona Creek Estuary Toxic Pollutants TMDL,

which addresses sediment bound metals and other toxics, is also a past deadline (January 11, 2017). Therefore, per Part IX.B.9 of the Order, remove the proposed interim milestone of 50% wet weather metals reduction by 2023 per the metals TMDL from the WMP so that 100% of the total structural BMP capacity required will be achieved by July 15, 2026.

18. Table 3-5 of the WMP states that for the “Santa Monica Bay DDTs and PCBs” and the “BC Wetlands Sediment and Invasive Exotic Vegetation” TMDLs, the “Permit (Part VI.E.3.c, pg. 145) allows MS4 Permittees to propose a schedule in an EWMP.” This is referencing the previous 2012 Los Angeles County MS4 Permit. However, per the current permit Part IV.B.2.b of the Order and Parts III and V.E in Attachment O of the Order, Permittees are required to demonstrate compliance with these TMDLs as of the effective date of the Order and therefore are not allowed to propose a compliance schedule in the WMP. Update Tables 3-5 of the WMP and all compliance schedules for these TMDLs in the WMP accordingly. For example, remove rows pertaining to schedules for Category 1 WBPCs for the EPA TMDLs in Table 3-6 of the WMP.
19. To demonstrate how the proposed BMPs in the WMP will meet the RAA-required load or volume reductions, add a new table to the WMP or update an existing table that summarizes the current BMP capacity achieved, required volume or load reduction, total RAA-required BMP capacity, and interim/final deadlines.
20. The WMP contains references to the previous Los Angeles County MS4 Permit. Update the WMP to reference the Regional MS4 Permit.

Approval of the Group’s WMP, subject to the conditions above, reinstates the Group’s deemed compliance status, per the Board’s February 25, 2022 letter on the Group’s June 30, 2021 status of compliance demonstration, for the WBPCs identified in section 2.1.2 below.

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

The Group shall submit a final WMP to the Los Angeles Water Board that satisfies all of the above conditions no later than **July 3, 2023**. The final WMP must be submitted electronically by uploading the files in a folder with the name of the Group to the FTP site using the following credentials:

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

Username: RB4MS4-Upload

Password: RB4-bmBb3Z

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

2) Compliance Determinations

2.1 Compliance Determination for WBPCs other than Trash

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

- The sum of the structural BMP capacities in Figure 7-1 (BC EWMP Implementation Strategy to reach 2026 Deadline) of the WMP

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

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

- Table 3-3 (Summary of Ballona Creek Water Body-Pollutant Categories) of the WMP:
 - Category 1 WBPCs for wet weather bacteria: Total coliform, Fecal coliform, *Enterococcus*, and *E. Coli*
 - Category 1 WBPCs for wet weather metals: copper, lead, and zinc
 - Category 1 WBPCs for sediment-bound pollutants: cadmium, copper, lead, silver, zinc, total chlordane, total DDTs, and total PCBs
 - Category 2 and 3 WBPCs

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

2.2 Compliance Determination for Trash WBPCs

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

3) *Other Requirements*

Adaptive Management

Pursuant to Part IX.E.1 of the Order, the Permittee(s) shall implement an adaptive management process for each approved WMP. An adaptive management process is a periodic, comprehensive program evaluation, including re-analysis of data and/or modeling, and modification process to determine progress toward achieving WQBELs and receiving water limitations and to adapt the Watershed Management Program to become more effective at achieving WQBELs and receiving water limitations. Pursuant to Part IX.E.4 of the Order, Permittee(s) shall submit the results of the adaptive management process with the Permittees' Report of Waste Discharge (ROWD) to the Los Angeles Water Board no later than **March 15, 2026**.

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

WMP Modifications

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

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

Receiving Water Limitations Compliance Report

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

If you have any questions, please contact Ms. Erum Razzak with the Municipal Stormwater Permitting Unit by email Erum.Razzak@waterboards.ca.gov or phone (213) 620-2095. Alternatively, you may also contact Ivar Ridgeway, Municipal Stormwater Permitting Unit Supervisor by email at Ivar.Ridgeway@waterboards.ca.gov or by phone at (213) 620-2150.

Sincerely,

for Renee Purdy
Executive Officer

cc: Josette Descalzo, City of Beverly Hills
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