



LOWER LOS ANGELES RIVER
WATERSHED COMMITTEE

August 3, 2015

Transmitted via electronic mail: losangeles@waterboards.ca.gov

Rene Purdy, Chief, Regional Programs Section
Los Angeles Regional Water Quality Control Board
320, West 4th Street, suite 200
Los Angeles, Ca 90013
Renee.Purdy@waterboards.ca.gov

Subject:

LA County MS4 Permit – Responses to Petition of Review of WMP Approvals

Dear Ms. Purdy:

The Lower Los Angeles River Watershed Group (LLAR) appreciates the opportunity to provide comments regarding the Petition brought by NRDC *et al*¹ (Petitioners) to review the Executive Officer's Action to approve the Watershed Management Programs (WMPs). As you know, the 2012 MS4 Permit (Order No. R4-2012-0175) provided a voluntary Permit compliance path to Permittees through the preparation and implementation of WMPs. The WMP approach allows Permittees to combine resources in order to create an efficient program that focuses on water quality priorities within a watershed. The program is supported by a comprehensive quantitative analysis that provides reasonable assurance to achieve compliance milestones, as well as a process to adaptively manage the program that is guided by the monitoring data collected through the Group's Coordinated Integrated Monitoring Program². In 2013, the LLAR decided to coordinate with the Gateway Watershed Management Authority (GWMA) to prepare a WMP. This coordinated effort included collaboration with two neighboring watershed groups representing the Los Cerritos Channel and the Lower San Gabriel River.

During the development of the WMP, there were several opportunities for stakeholders to provide comments. These opportunities included: (1) the June 2013 Notice of Intent, (2) the April 2014 Stakeholder meeting held by the Group, (3) the June 2014 Draft WMP submittal, (4) the February 2015

¹ Petition dated May 28, 2015.

² Lower Los Angeles Coordinated Monitoring Program approved on 07/28/2015

submittal of the Revised WMP, and (5) October 2014 and April 2015 public meetings held by the Regional Board offices. The LLAR has made every effort to address stakeholder comments.

The Group is aware that the Petitioners specifically called out twelve of the twenty-three comments originally made by the Regional Board staff in response to the Draft LLAR WMP.³ The submittal of the Revised WMP prior to April 28, 2015, included a matrix that summarized how each of the Regional Board's comments to the Draft WMP was addressed. The intent of the matrix was to assist the Regional Board in the identification of all necessary revisions (which occur in multiple places throughout hundreds of pages) and provide clarification. Because the matrix was not posted on the Regional Board's website, and as such not available to the Petitioners, it appears that the Petitioners may have had difficulty in both identifying all revisions and understanding the reasoning behind them. These responses are reiterated on the attached matrix (Attachment 1), with additional clarification provided as needed.

The Executive Officer on behalf of the Board approved the WMP with conditions on April 28, 2015, effectively finding that the WMP as submitted met the requirements for preparation as described in the MS4 permit. The minor clarifications required as part of the approval were non-substantive and clerical in nature. The final version of the WMP with these clarifications incorporated was submitted to the Regional Board on June 12, 2015. By letter dated July 21, 2015, the Executive Officer on behalf of the Board approved the June 12, 2015 submittal without further conditions.

In light of the Petition, the Petitioner's original comments to the Draft WMP, and the Petitioner's statements at the April 12, 2015, Regional Board Public Meeting and the June 16, 2015, State Water Resources Control Board Meeting, the Group is compelled to reiterate its commitment to implement the approved WMP, which to date has cost over \$800,000 to prepare. This commitment is evidenced by the Group's recent activities, which include but are not limited to:

- Developing and adopting a five-year WMP implementation and monitoring agreement. This agreement will provide nearly \$1,000,000 in annual funding for monitoring and the continued watershed activities.
- Developing and adopting an agreement with all Permittees within the Los Angeles River watershed to implement sample collection and share data for the Dominguez Channel and Greater Harbor Toxics TMDL.
- Implementing the Proposition 84 Grant to install 43 bio-filtration systems in major transportation corridors throughout the Lower San Gabriel River, Lower Los Angeles, and Los Cerritos Channel Watersheds. As part of the grant, monitoring of the bio-filtration systems will be performed to evaluate pollutant removal effectiveness. The grant will be completed by April 2017.
- The internal development and participation of Group members in three separate workshops devoted to the implementation of the WMPs, covering 15 hours of material in total. Topics have included results of the Reasonable Assurance Analysis, new Minimum Control Measures as mandated by the MS4 Permit, and new watershed control measures incorporated into the WMP

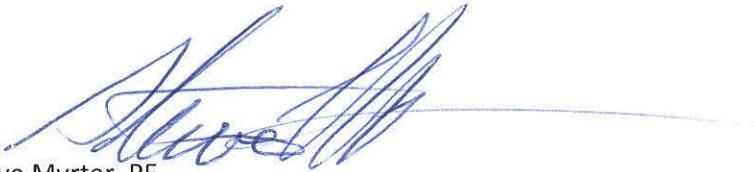
³ See Petition, Exhibit D.

such as erosion and sediment control at vacant lots. Neighboring watershed groups for the Los Cerritos Channel and the Lower San Gabriel River also participated in the workshops, covering staff from 17 cities in total. They have been well attended and engaging: the most recent workshop was conducted on July 15, 2015, and was attended by 53 staff members with key MS4 Permit responsibilities, such as directors, engineers, planners, program managers, and inspectors.

It is also important to note that the development of the WMP was a challenging endeavor. It required nine Permittees to collaborate and commit to the development of a complex program with far-reaching and extensive objectives in a six-month period. It then required joint participation in regularly scheduled technical committees to effectively develop the document in time to complete a draft (including a comprehensive watershed model simulation and a separate monitoring program) within one year. Following approval of the WMP, the Group continues to meet regularly in order to effectively commence implementation. These past and future efforts reiterate the Group's commitment to the watershed approach provided by the MS4 Permit.

Thank you again for the opportunity to comment. In summary, the Group has invested a substantial effort in the preparation of and now implementation of the WMP and request that the process not be derailed.

Sincerely

A handwritten signature in blue ink, appearing to read 'Steve Myrter', with a long horizontal line extending to the right.

Steve Myrter, PE

Chair

Attachment 1: Lower Los Angeles River WMP Group Comments to Petitioners' Analysis

Permit Citation	Staff Comments from October 30, 2014	Analysis of Revised WMP Responsiveness to Staff Comments	Conditional Approval Requirements	LLAR Group Response to Petitioners' Analysis
Part VI.C.5.b.iv.(4)(b)-(c)	"The MS4 Permit requires that the WMP provide specificity with regard to structural and non-structural BMPs, including the number, type, and location(s), etc. adequate to assess compliance. In a number of cases, additional specificity...is needed....[T]here should at least be more specificity on actions within the current and next permit terms."	The response, and other statements throughout the document, demonstrate that no commitments to "specificity or actions" or associated timelines are made.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	Section 5 of the Revised (and Final) WMP was modified to increase the degree of clarity and specificity regarding schedules and actions for the current and next permit terms. The corrections to the Final WMP further refined these commitments. The Group has also addressed the inherent uncertainty as to which specific BMPs will be implemented to address the milestones in the RAA compliance tables (RAA Attachment B): Section 5.3 was revised to include a 2015-2016 schedule of feasibility studies and site assessments to determine specific projects.
Part VI.C.5.b.iv.(4)(b)-(c)	"...the WMP should at least commit to the construction of the necessary number of projects to ensure compliance with permit requirements per applicable compliance schedules."	No change was made in the document in response to the comment.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	The commitment language was included in the Revised (and Final) WMP in Section 5.3. Also included were modifications to increase the degree of clarity and specificity regarding schedules and actions for the current and next permit terms. Of particular note, WMP Section 5.3 was revised to include a 2015-2016 schedule of feasibility studies and site assessments to determine specific projects to address the milestones in the compliance tables of the RAA, Attachment B.
Part VI.C.5.b.iv.(5)	"The RAA should clarify that sufficient sites were identified so that the remaining necessary BMP volume can be achieved by those sites that were not 'excluded for privacy.'"	No change was made in the document in response to the comment.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	Though specific addresses were not provided in the WMP, these locations are still potential sites for regional structural BMPs and may be used as such. The complete list of potential sites in Section 3 of the WMP, including those where the address has been excluded for privacy, provide the necessary BMP volume needed as established through the RAA.
Part VI.C.5.b.iv.(5)	"The RAA identifies zinc as the limiting pollutant and notes that this pollutant will drive reductions of other pollutants. If the Group believes that that [sic] this approach demonstrates that activities and control measures will achieve applicable receiving water limitations, it should explicitly state and justify this for each category 1,2, and 3 pollutant."	No change was made in the document in response to the comment	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	Section 5.3.1 of the RAA (WMP Appendix A-4) justifies how Category 1, 2, and 3 pollutants are controlled through the limiting pollutant approach. This statement, along with a reference to the RAA for justification, is included in Section 4.1. The revised introduction to Section 5 of the WMP provides explicit statements regarding the implementation of this approach in order to achieve applicable receiving water limitations.
Part VI.C.5.b.iv.(5)	"We note that modeling was not conducted for organics (DDT, PCBs, and PAHs). It is not clear why these pollutants were not modeled or why previous modeling of these pollutants could not be used....An explanation for the lack of modeling is needed."	No change was made in the document in response to the comment.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	It should be noted that the original watershed modeling (based on LSPC) supporting the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL did not include simulation of DDT, PCBs, and PAHs. Rather, modeled sediment was used as a surrogate to estimate watershed loadings. Therefore, the 90 th percentile of observed concentrations were assigned, meeting requirements set forth by RAA guidance provided by the Regional Water Quality Control Board.

Attachment 1: Lower Los Angeles River WMP Group Comments to Petitioners' Analysis

Permit Citation	Staff Comments from October 30, 2014	Analysis of Revised WMP Responsiveness to Staff Comments	Conditional Approval Requirements	LLAR Group Response to Petitioners' Analysis
Part VI.C.5.b.iv.(5)	"...the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL was [sic] appears to be completely omitted from the draft WMP."	No change was made in this section of the document and there is no inclusion of analysis of pollutant controls, as requested.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	The Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutant TMDL was addressed in the Draft (and Final) WMP (Section 3.4.1.6). The RAA concludes that the WQBELS of this TMDL are not "limiting", as defined by the limiting pollutant approach which is also justified and explained in the RAA. Zinc was predicted to be the limiting pollutant, and following the strategies and compliance schedules of the WMP (Chapters 3 and 5, respectively), targeting load reductions to achieve zinc WQBELS will simultaneously result in load reduction to achieve the WQBELS of the Toxics TMDL.
Part VI.C.5.b.iv.(5)	"Pursuant to Section VI.C.5.a., the WMP should be revised to include an evaluation of existing water quality conditions, classify them into categories, identify potential sources, and identify strategies, control measures, and BMPs as required in the permit for San Pedro Bay unless MS4 discharges from the LLAR WMA directly to San Pedro Bay are being addressed in a separate WMP."	There is only one reference in the document to San Pedro Bay, and it remains unchanged from the 2014 version of the WMP.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	MS4 discharges directly to San Pedro Bay will be addressed in the WMP developed by the City of Long Beach as required by the Long Beach MS4 NPDES Permit.
Part VI.C.5.b.iv.(4)(c)	"The draft WMP appears to rely mostly on the phase-out of copper in automotive brake pads...to achieve the necessary copper load reductions.... [O]ther structural and non-structural BMPs may still be needed to reduce Cu loads sufficiently to achieve compliance deadlines for [sic] interim and/or final WQBELS."	No change was made in the document in response to the comment.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	As explained in a response table provided to the Regional Board along with the Revised WMP, a change to the document was not necessary. The RAA approach of controlling zinc, in concert with the modeled effect of copper load reductions anticipated through SB 346, anticipates that the application of the Watershed Control Measures and Compliance Schedule of Chapter 3 and 5, respectively, will reduce copper loads sufficiently to achieve compliance deadlines from interim and/or final WQBELS.
Part VI.C.5.b.iv.(5)(c)	"For waterbody-pollutant combinations not addressed by TMDLs, the MS4 Permit requires that the plan demonstrate using the reasonable assurance analysis (RAA) that the activities and control measures to be implemented will achieve applicable receiving water limitations as soon as possible.... [The RAA] does not address the question of whether compliance with limitations for pollutants not addressed by TMDLs could be achieved in a shorter time frame."	No response identified.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	The introduction to Section 5 was modified to more clearly demonstrate that the compliance schedule is as soon as possible for pollutants not addressed by TMDLs.
Part VI.C.5.b.iv.(5)	"The WMP assumes a 10% pollutant reduction from new non-structural controls....additional support for this assumption should be provided, or as part of the adaptive management process, the Permittees should commit to evaluate this assumption during program implementation and develop alternate controls if it becomes apparent that the assumption is not supported."	No change was made in the document in response to the comment.	No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.	Section 4.3 was added to the Revised WMP to address the Regional Board comment. The Regional Board also states that, "as part of the adaptive management process, the Permittees should commit to evaluate this assumption during Program implementation and develop alternate controls if it becomes apparent that the assumption is not supported." This commitment was also included in Section 4.3.

Attachment 1: Lower Los Angeles River WMP Group Comments to Petitioners' Analysis

Permit Citation	Staff Comments from October 30, 2014	Analysis of Revised WMP Responsiveness to Staff Comments	Conditional Approval Requirements	LLAR Group Response to Petitioners' Analysis
Part VI.C.5.b.iv.(5)	<p>"...the predicted baseline concentrations and loads for all modeled pollutants of concern, including TSS, should be presented in summary tables for wet weather conditions."</p>	<p>No change was made in the document in response to the comment.</p>	<p>No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.</p>	<p>An additional table was added to the RAA to reflect the baseline loads. Found on page 39 as Table 5-6.</p>
Part VI.C.5.b.iv.(5)	<p>"The report presents the existing runoff volumes, required volume reductions and proposed volume reductions from BMP scenarios to achieve the 85th percentile, 24-hour volume retention standard for each major watershed area....The same information...also needs to be presented for each modeled subbasin...Additionally, more explanation is needed as to what constitutes the 'incremental' and 'cumulative' critical year storm volumes in table 9-4 through 9-7 and how these values were derived from previous tables.</p> <p>"The report needs to present the same information, if available, for non-stormwater runoff."</p>	<p>No change was made in the document in response to the comment.</p>	<p>No Requirement to address Oct. 30, 2014 Staff comment or to comply with Permit term.</p>	<p>Regarding the required information for the modeled subbasins, Attachment B of the RAA was updated to include the requested tables, along with a sentence to provide some clarification in RAA Section 9.2.1 (third paragraph).</p> <p>Regarding non-stormwater runoff, the complete comment from the Regional Board is as follows: "The report needs to present the same information, if available, for non-stormwater runoff. <u>Alternatively</u>, the report should include a commitment to collect the necessary data in each watershed area, through the non-stormwater outfall screening and monitoring program, so that the model can be re-calibrated during the adaptive management process to better characterize non-stormwater flow volumes and to demonstrate that proposed volume retention BMPs will capture 100 percent of non-stormwater that would otherwise be discharged through the MS4 in each watershed area."</p> <p>A commitment to the recalibration alternative was included in WMP Section 4.2.</p>