



CITY OF SOUTH EL MONTE

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VIA ELECTRONIC MAIL

June 27, 2013

Samuel Unger, Executive Director
Regional Water Quality Control Board, Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, California 90013
losangeles@waterboards.ca.gov

Subject: Notice of Intent to Develop an Individual Watershed Management Plan

Dear Mr. Unger:

The **City of South El Monte** is pleased to submit its Notice of Intent ("NOI") to the Los Angeles Regional Water Quality Control Board ("Regional Board") to:

1. Develop an Individual Watershed Management Plan ("I-WMP") in accordance with Los Angeles Regional Water Quality Control Board Order No. R4-2012-0175, NPDES Permit No., CAS0040, adopted on November 8, 2012 ("Permit") and became effective on December 28, 2012, and
2. Participate in a Coordinated Integrated Monitoring Plan ("CIMP");
3. Deliver drafts of the I-WMP and CIMP to the Regional Board on or before June 28, 2014.

The NOI requires the completion of the following tasks under VI.C.4.B.ii:

1. Identify applicable interim and final trash water quality based effluent limitations (WQBELs);
2. Identify all other interim and final WQBELs;
3. Identify interim and final receiving water limitations; and

4. Identify watershed control measures (where possible) based on existing TMDL implementation plans to be implemented by the City, concurrently with the development of a WMP (an I-WMP in this case).

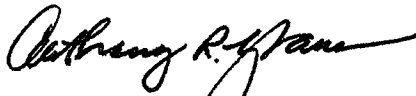
In addition to the foregoing, NOI also requires the following tasks to be performed if a permittee chooses to implement an I-WMP:

1. Demonstrate that a draft Low Impact Development (LID) Ordinance is in place;
2. Demonstrate that a draft Green Street Policy is in place.

The Attachment provides a complete discussion of the NOI-related tasks. The City hereby reserves all its legal and equitable rights to challenge the Permit and the associated TMDLs, and nothing herein should be construed as acceptance or acquiescence to any terms or requirements of the Permit or TMDLs the City believes to be legally or technically deficient.

Should you have any questions please feel free to call me at (626) 579-6540 or email me at aybarra@soelmonte.org.

Sincerely,



Anthony R. Ybarra
City Manager
City of South El Monte

Enclosure(s)

cc:

Renee Purdy, California Regional Water Quality Control Board, Los Angeles Region (via electronic mail);
Rebecca Christmann, California Regional Water Quality Control Board, Los Angeles Region (via electronic mail);
Quinn M. Barrow (via electronic mail);
Ray Tahir (via electronic mail);
Andrew J. Brady (via electronic mail).

Attachment #1: City of South El Monte I-WMP/CIMP Notice of Intent Letter

i. *Notice of Intent to Develop I-WMP and CIMP*

The **City of South El Monte** ("City") has chosen to develop its own Individual Watershed Management Plan ("I-WMP") to meet TMDL and non-water quality standards (referred to collectively as "WQSs") for several reasons including but not limited to the following:

1. The I-WMP allows the City to determine to what extent its existing stormwater quality management program (SQMP), which has been in effect since 2002, is meeting TMDLs and non-TMDL WQSs, based outfall monitoring against ambient WQSs. It is possible that the City has been meeting some or even most WQSs. If outfall monitoring shows persistent exceedances, the I-WMP will contain a mechanism for addressing it.
2. If persistent exceedances of WQSs are detected from outfall discharges the permittee shall report them to the Regional Board along with a plan for improving BMPs to address the exceedances. This constitutes an "iterative process."
3. The City will submit its I-WMP on or before June 28, 2014.

The City declares its preference for participation in a Coordinated Integrated Monitoring Plan ("CIMP"). The CIMP will include participation with other MS4 permittees according to watersheds as mentioned above. The CIMP will address all of the monitoring requirements specified in the MS4 permit's Monitoring and Reporting Program ("MRP") element. The purpose of the CIMP is to: (1) characterize watersheds/sub-watersheds relative to WQSs; (2) determine to what extent MS4 permittees are meeting or not meeting WQSs; and (3) achieve monitoring cost savings through collective participation with other permittees sharing common watershed location. The City's CIMP will be submitted at the same time as its I-WMP, on or before June 28, 2014.

Although **South El Monte** is opting for an I-WMP and CIMP, it will work in cooperation with the following permittees on a watershed basis:

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • Reach 2, Rio Hondo (tributary to Los Angeles River) 	<ul style="list-style-type: none"> • El Monte • Irwindale

Watershed/Sub-watershed	Participating MS4s
<ul style="list-style-type: none"> • San Gabriel River 	<ul style="list-style-type: none"> • El Monte (reach 3) • Glendora (reach 5 and Walnut Creek) • Irwindale (reach 4 and 5) • West Covina (Walnut Creek and San Jose Creek, Reach 1) • Walnut (Walnut Creek and San Jose)

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	Creek, Reach 1)
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Each of these cities will be responsible for preparing its own individual WMP and conducting its own monitoring. However, because each of these permittees shares the same consultant, cost-sharing of I-WMP and CIMP development will likely result in common terms.

- ii. *Dry and Wet Weather Interim and Final WQBELs for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo and Legg Lake)*

Los Angeles River Watershed TMDLs

Wet Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo ¹	17 ug/l	62 ug/l	159 ug/l	See Attachment #2
Water Body	Bacteria	-	-	-
Reach 2 Rio Hondo	235 MPN/100 ml	-	-	-
Water Body	Nutrients ²	-	-	-
Reach 2 Rio Hondo	7.2 mg/l	-	-	-
Water Body	Nutrients Total Nitrogen	Nutrients Total Phosphate	-	-
Legg Lake	1394.8 lb/yr	498.7 lb/yr	-	See Attachment #2
Dry Weather WLAs				
Water Body	Copper	Lead	Zinc	Trash
Reach 2 Rio Hondo	13 ug/l	5 ug/l	131 ug/l	Same As Wet Weather
Water Body	Bacteria (Interim)	Bacteria (Final)	-	-
Reach 2 Rio Hondo	2 MPN/day	235 MPN/100 ml	-	-
Water Body	Nutrients Total Nitrogen	Nutrients Total Phosphate	-	-
Legg Lake	1394.8 lb/yr	498.7 lb/yr	-	See Attachment #2

¹The State's 303(d) list does not show Reach 2 of the Rio Hondo as being impaired for metal or trash.

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iii. *Dry and Wet Weather Interim and Final Receiving Water Limitations for Los Angeles River Metals TMDLs (includes Reach 2 of the Rio Hondo and Legg Lake)*

As is the case for dry and wet weather interim and final WQBELs, there is no reference to dry and wet weather interim and final receiving water limitations (RWLs) in federal law or USEPA guidance. And, there is no definition of an interim or final wet or dry weather RWL in attachment "A" of the Order. However, the Order here does define a RWL to mean:

Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

The foregoing definition is incorrect to the extent that is limited only to water quality objectives (WQOs), which are State standards. The definition should have only referenced WQSs, which are federal standards and according to the Los Angeles Region Basin Plan also includes WQOs. Or it should have just added WQSs in the sentence, thereby making it clear that both WQSs and WQOs are RWLs. This is an important distinction because a WQO cannot be interpreted to mean or apply to a TMDL because it is a federal construct.

Beyond this, if the Regional Board intended interim and final RWLs to mean WLAs that require compliance in receiving waters, based on in-stream monitoring, it is mistaken. As RWL language in the Order at V.A.1 explains: *Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.* From this, it would be unreasonable to conclude that an RWL can be expressed in interim or final terms. It has been suggested that the RWL is merely a compliance standard, expressed as a WLA, applied to the receiving water that must be complied through in-stream measurements. However, it is clear from Order section V.A.1 that determining violations of RWLs can only be determined by measuring discharges from the MS4 (viz., an outfall or end-of-pipe).

iv. *Dry and Wet Weather Interim and Final WQBELs for San Gabriel River-Related TMDLs*

The City cannot identify wet weather interim and final WQBELs because of the uncertainty of what a WQBEL means. There is no definition of a wet weather or dry weather WQBEL anywhere in federal law or USEPA guidance. There is also no definition in Attachment A of the Order. It only explains it as acronym, which stands for a "water quality based effluent limitation." It has been suggested that a WQBEL is the same as a WLA. The City disagrees with this interpretation. A WQBEL is a means of attaining a WLA, generally expressed as BMPs. Complicating matters is that the SGR M-TMDL is a USEPA TMDL, which only

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requires WQBEL-BMPs to achieve compliance with TMDL WLAs. WQBELs, within the context of this TMDL, translate WLAs into BMPs, rendering a clear definition that does not exist in the Order.

Further complicating matters is that USEPA TMDLs do not define WQBELs to mean the same as WLAs. Instead, as noted in the current MS4 permit, USEPA TMDLs interpret WQBELs to mean BMPs. Until the SGR M-TMDL is adopted as State TMDL, which must go through a basin plan amendment process, the City will rely on USEPA's definition of a WQBEL.

In any case, dry and wet WLAs are numeric targets established for USEPA's SGR M-TMDLs. They are listed in the table below.

San Gabriel River Watershed TMDLs

Wet Weather WLA			
Water Body	Copper	Lead	Zinc
San Gabriel River Reach 2	N/A	81.34 mg/l x daily storm volume (L)	N/A
Coyote Creek	24.71 mg/l x daily storm volume (L)	96.99 mg/l x daily storm volume (L)	144.57 mg/l x daily storm volume (L)
Dry Weather			
Water Body	Copper	Selenium	
San Gabriel Reach 1	18 mg/l	N/A	N/A
Coyote Creek	20 mg/l	N/A	N/A
San Gabriel Estuary	3.7 mg/l	N/A	N/A
San Jose Creek Reach 1	NA	5 mg/l	N/A

The compliance schedule for attaining the above dry and wet weather WLAs is shown in the table below.

Date	Dry Weather WLA	Wet weather WLA
June 30, 2017	30% (MS4's drainage area)	10% (MS4's drainage area)
June 30, 2020	70% (MS4's drainage area)	35% (MS4's drainage area)
June 30, 2023	100% (MS4's drainage area)	65% (MS4's drainage area)
June 30, 2026	100% (MS4's drainage area)	100% (MS4's drainage area)

According to the San Gabriel River Metals TMDL (SGR-MTMDL), which is currently a USEPA TMDL, all permittees located in the San Gabriel River watershed are subject to waste load allocations (WLAs) for copper, zinc, lead, and selenium as following excerpt from it indicates:

Wet-weather allocations will be developed for all upstream reaches and tributaries in the watershed that drain to impaired reaches during wet weather.³ Discharges to these upstream reaches can cause or contribute to exceedances of water quality standards in San Gabriel River Reach 2 and Coyote Creek and thus contribute to impairments.

However, the City is of the view that it should not be subject to any of the SGR M-TMDLs. Table 7-1 of the TMDL lists **South El Monte** as being located in Reach 3 of the SGR, which is not impaired.

In spite of this, Regional Board staff has concluded that the City is subject to all of the M-TMDLs because of the tributary rule. The tributary rule does not apply here, however. It only operates to extend a beneficial use within a reach to an unidentified water body such as a stream or a lake. It cannot extend a beneficial use to an outside reach for which that same use does not exist. For example, the beneficial use of Reach 2 of the Rio Hondo is ground water recharge. It obviously cannot apply the same use to an upstream or downstream reach, even though the reaches are tributary to it. And, in any case, a beneficial use and a water quality standard are two separate issues. A water quality standard is intended to protect a beneficial use. If that standard is not sufficient, based on monitoring, then a TMDL would be required.

v. *Dry and Wet Weather Interim and Final Receiving Water Limitations for San Gabriel River-Related TMDLs*

See paragraph (iv) above.

v. *Watershed Control Measures Implemented During Development of I-WMP*

It is not possible to identify Watershed Control Measures (WCM) at this time because none of the cities in Reach 2 of the Rio Hondo have implemented a TMDL Implementation Plan containing watershed-scale control measures. The only control measures that have been implemented by the City are localized BMPs contained in the SQMP.

If the Regional Board would like the City to provide a list of the localized BMPs implemented pursuant to the applicable TMDLs, the City would be happy to provide such a list. The City will develop WCMs in its WMP geared toward meeting the applicable benchmarks.

³This assertion contradicts State Board Water Quality Order 2001-15, which held: *There is no provision in state or federal law that mandates the adoption of separate water quality standards for wet weather conditions (see page 10).*

x. *Demonstration of an Low Impact Development Ordinance*

The City has begun development of the LID order to the extent that it: (1) has reviewed the City and County of Los Angeles' versions; (2) has made an initial draft version based on the City and County of Los Angeles' versions; and (3) is developing a more abbreviated ordinance of its own based thereon.

xi. *Demonstration of Green Street Policy Development*

The City is developing a Green Streets Policy and has developed an initial draft. The City's Green Street Policy is based on the requirements of the Order which applies to the **Land Use Development Program**, which is subject to new development and redevelopment projects as the following indicates:

Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

This provision clearly directs permittees to follow USEPA guidance to the maximum extent practicable⁴ and is applicable to 10,000 square feet or more of impervious surface. The City will apply it to new transportation corridors in areas of new development which are defined as *standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.*

⁴MEP will be based on, among other factors, cost and infiltration rates and shall allow for infiltration of street runoff through other media such as porous concrete.

Attachment #2: Los Angeles River Trash TMDLs All Reaches

Table 6. Los Angeles River Trash TMDL: Implementation Schedule.⁴⁵
 (Required percent reductions based on initial baseline wasteload allocation of each city)

Year	Implementation	Waste Load Allocation	Compliance Point
1 Sept 2008	Implementation: Year 1	60% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 60% of the baseline load
2 Sept 2009	Implementation: Year 2	50% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 55% of the baseline load calculated as a 2-year annual average
3 Sept 2010	Implementation: Year 3 ⁴⁶	40% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 50% of the baseline load calculated as a rolling 3-year annual average
4 Sept 2011	Implementation: Year 4	30% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 40% of the baseline load calculated as a rolling 3-year annual average
5 Sept 2012	Implementation: Year 5	20% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 30% of the baseline load calculated as a rolling 3-year annual average
6 Sept 2013	Implementation: Year 6	10% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 20% of the baseline load calculated as a rolling 3-year annual average
7 Sept 2014	Implementation: Year 7	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 10% of the baseline load calculated as a rolling 3-year annual average
8 Sept 2015	Implementation: Year 8	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 3.3% of the baseline load calculated as a rolling 3-year annual average
9 Sept 2016	Implementation: Year 9	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 0% of the baseline load calculated as a rolling 3-year annual average

Attachment #3: Legg Lake Trash TMDL

Task	Impacted Permittees	Deadline
Installation of Full Capture Systems to achieve 20% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2012
Installation of Full Capture Systems to achieve 40% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2013
Evaluate the effectiveness of Full Capture Systems, and reconsider the WLA.	Regional Board	March 6, 2013
Installation of Full Capture Systems to achieve 60% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2014
Installation of Full Capture Systems to achieve 80% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6, 2015
Installation of Full Capture Systems to achieve 100% reduction of trash from Baseline WLA*.	Los Angeles County, Los Angeles County Flood Control Districts, the Cities of El Monte and South El Monte, and Caltrans	March 6 th , 2016

* Compliance with percent reductions from the Baseline WLA will be assumed wherever full capture systems are installed in corresponding percentages of the conveyance discharging to the water body. Installation will be prioritized based on the greatest point source loadings.