



## Los Angeles Regional Water Quality Control Board

April 28, 2023

Via Email Only

Permittees of the North Santa Monica Bay Coastal Watersheds Group<sup>1</sup>

**APPROVAL, WITH CONDITIONS, OF THE NORTH SANTA MONICA BAY COASTAL WATERSHEDS 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 North Santa Monica Bay Coastal Watersheds Group:

This letter (1) conditionally approves the Watershed Management Program (WMP) submitted by the North Santa Monica Bay Coastal Watersheds Group (Group) subject to additional revisions of the WMP, (2) reviews compliance metrics for waterbody 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/or the Los Angeles County MS4 Permit Order No. R4-2012-0175, the Group submitted a revised draft WMP dated June 30, 2021 to the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board or Board. 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, these WMPs has been reviewed per Part IX of the Regional MS4 Permit.

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<sup>1</sup> Permittees of the North Santa Monica Bay Coastal Watersheds Group include the City of Malibu, the County of Los Angeles, and the Los Angeles County Flood Control District.

NORMA CAMACHO, CHAIR | RENEE PURDY, EXECUTIVE OFFICER

## 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 WMP and Reasonable Assurance Analysis (RAA) are required to be consistent with the requirements of the Regional MS4 Permit. An email was sent to the Group on May 6, 2022 providing comments and questions on the WMP. Subsequently, there was a meeting with the Group on May 19, 2022 to discuss necessary revisions to the WMP. The Los Angeles Water Board received the Group's second revised draft WMP on June 6, 2022. The Los Angeles Water Board hereby approves the Group's WMP, dated June 6, 2022, subject to the following conditions:

1. Per part IX.B.9. of the Order, Permittees shall incorporate any applicable compliance schedules in Part IV.B and Attachments K through S of this Order. R21-001 was recently approved by OAL on May 2, 2022, which extended the SMB Bacteria TMDL to July 2024 for certain monitoring locations. Update Section 5.3 "Scheduling of Stormwater Control Measures," and Figure 42 through Figure 44 of the WMP, to remove reference of the Group's proposed alternative schedule of 2034. In addition, add the compliance deadline of July 15, 2024 to the total bar in Figure 42 through Figure 44 of the WMP.
2. Update Section 5.4 title "Implementation Schedule" to "Alternative Implementation Schedule."
3. Update Table 3 "NSMBCW TMDLs" of the WMP to correct the final compliance deadline for the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments to December 28, 2025, per Section IV.D.5 of Attachment O of the Order.
4. Add a new summary table to Section 5.4.1 of the WMP that compares the baseline volume/load, the required volume or load reduction, and total RAA-required BMP capacity in order to clearly demonstrate that the BMPs in the WMP have been predicted to achieve water quality based effluent limits and receiving water limits by the RAA.
5. WMP Table 5, Station MC-1 with Footnote 3 states, "The Malibu Creek and Lagoon Bacteria TMDL does not distinguish between summer and winter seasons for dry weather AEDs. Instead, the AEDs represent the total AEDs for all dry weather for the entire monitoring year." The Malibu Creek and Lagoon Bacteria TMDL does distinguish between summer/winter dry weather for Malibu Lagoon. MCW-1 is South of PCH and therefore the allowable exceedance days for this location are 0 days in Summer, 9 for winter (daily sample) and 2 winter (weekly

- sample). Please correct the allowable exceedance days for this location and Footnote 3, per Section IV.A.3.f of Attachment O of the Order.
6. Update and provide the legal authority for the County of Los Angeles and the Los Angeles County Flood Control District per Part IX.B.7.a. of the Order. In addition, the enclosure for the City of Malibu references the 2012 MS4 Permit, on page 3 of the letter. Update the legal authority for the City of Malibu to reference the Regional MS4 Permit.
  7. Update Figure 1 “NSMBCW WMP Area” of the WMP to reflect the same figure in Figure ES-1 “NSMBCW WMP Area”, where J9 is portrayed within the Group’s management area with a dashed black line.

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 31, 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:

- Structural BMP Capacity per the total column in Figure 42, “Scheduling of WMP Implementation Plan to Address TMDL and ASBS Provisions,” for priority areas identified in Figure 19, “NSMBCW WMP Group Area and 180 Subwatersheds

Represented by WMMS2 with Key Assessment Areas,” by the final Santa Monica Bay Bacteria wet weather compliance deadline of July 15, 2024.

If the Group fails to attain the interim milestones for the Santa Monica Bay Bacteria TMDL, then the Group shall lose deemed compliance status for their interim WQBELs. 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 85<sup>th</sup> percentile 24-hour storm event

- Malibu Creek Watershed, within NSMBCW Group’s management area, retain all non-stormwater runoff and runoff from the 85<sup>th</sup> 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:

- In Malibu Creek Watershed within NSMBCW management area: wet and dry weather pollutants per Table 10 “Water Body Pollutant Prioritization for the NSMBCW WMP Area” of the WMP, except 4,4’ DDT, 4,4’ DDE, 4,4’ DDD, PCBs, trash and plastic pellets, and pollutants listed for Trancas Canyon Creek, Topanga Canyon Creek, Santa Monica Bay (S-O2), or Santa Monica Bay (Site 24-BB-03R).
- For priority areas identified in Figure 19 “NSMBCW WMP Group Area and 180 Subwatersheds Represented by WMMS2 with Key Assessment Areas”: Wet weather pollutants per Table 10, except 4,4’ DDT, 4,4’ DDE, 4,4’ DDD, PCBs, trash and plastic pellets, and pollutants listed for Malibu Creek and/or Malibu Lagoon until July 15, 2024.
- For areas that are not-priority areas (outside of areas identified as priority in Figure 19 “NSMBCW WMP Group Area and 180 Subwatersheds Represented by WMMS2 with Key Assessment Areas”) and are outside of Malibu Creek Watershed: Wet weather Category 1 and 2 pollutants listed for Santa Monica Bay or Santa Monica Bay Beaches per Table 10 “Water Body Pollutant Prioritization for the NSMBCW WMP Area” of the WMP, except 4,4’ DDT, 4,4’ DDE, 4,4’ DDD, PCBs, trash and plastic pellets until July 15, 2024.

Any WBPCs that are not listed above are not eligible for deemed compliance for 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 85<sup>th</sup> 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 Jessica Pearson with the Municipal Stormwater Permitting Unit by email [Jessica.Pearson@waterboards.ca.gov](mailto:Jessica.Pearson@waterboards.ca.gov) or phone (213) 576-6786. Alternatively, you may also contact Ivar Ridgeway, Municipal Stormwater Permitting Unit Supervisor by email at [Ivar.Ridgeway@waterboards.ca.gov](mailto:Ivar.Ridgeway@waterboards.ca.gov) or by phone at (213) 620-2150.

Sincerely,

for Renee Purdy  
Executive Officer

cc: Yolanda Bundy, City of Malibu  
Mark Johnson, City of Malibu  
Rob DuBoux, City of Malibu  
Steve McClary, City of Malibu  
Bruce Hamamoto, County of Los Angeles  
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Mark Lombos, Los Angeles County Flood Control District  
Annelisa Ehret Moe, Heal the Bay  
Benjamin Harris, LA Waterkeeper  
Corinne Bell, Natural Resources Defense Council