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August 3, 2015

Ms. Renee Purdy, Regional Programs Section  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Transmitted by email to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**Subject: LA County MS4 Permit – Response to Petition for Review of WMP Approvals**

Dear Ms. Purdy;

The Los Angeles River Upper Reach 2 Watershed Management Area (LAR UR2 WMA) includes the Cities of Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, Maywood, Vernon, and the Los Angeles County Flood Control District. Some of these Municipal Separate Storm Sewer (MS4) Permittees, such as the District, intend to separately submit responses to address issues beyond those of the LAR UR2 WMA group. On behalf of the LAR UR2 WMA, we are responding to the subject Petition for Review filed on May 28, 2015 by the Natural Resources Defense Council, Los Angeles Waterkeeper, and Heal the Bay, henceforth identified as "Petitioners". In brief, the LAR UR2 WMA encourages the Regional Board to ratify the April 2015, Executive Officer's approval of nine Revised Watershed Management Program (WMP) Plans, including that of the LAR UR2 WMA, so that implementation of the Approved Final WMPs may proceed with certainty and no additional time-consuming proceedings.

**Executive Officer WMP Approvals Conformed with the Regional Board's MS4 Permit**

On April 28, 2015, the Regional Board Executive Officer issued an LAR UR2 WMA WMP Approval letter comparable with many such other communications issued by Executive Officers over the years. This letter confirmed the expressed directions of the Regional Board in adopting the 2012 MS4 Permit. In the third paragraph of page 2, the letter states "*The Los Angeles Water Board hereby approves, subject to the following conditions, the LAR UR2 WMG's January 27, 2015 revised draft WMP. The Board may rescind this approval if all of the following conditions are not met to the satisfaction of the Board...*" (*emphasis added*). While the Board retains a right to rescind it, we understand the Letter to be an Approval, which, as stated in the first sentence on Page 5, directs that "*the Permittees of the LAR UR2 WMG shall begin implementation of the approved WMP immediately.*" There is no prior condition to the Approval, only a reservation that the Board may rescind it if the conditions are not met to the Board's satisfaction, and we fully anticipate that the June 12, 2015 Final WMP fully achieves the objectives of your conditions and Permit.

**Petitioners Broadly Overstate Required Draft WMP Revisions**

Page 14 of the Petitioners' May 28, 2015, Memorandum of Points and Authorities reiterate and rephrases six "inadequacies" that they assert were identified by Regional Board Staff in the October 27, 2014 Review letter, as shown in the leftmost column of **Table 1**. The center table column summarizes the responses made by the LAR UR2 WMA to the Regional Board staff over the three months following receipt of the review letter, while the rightmost column addresses changes instituted in subsequent WMPs to address the concerns of Board Staff, or our understanding of why staff concerns had been adequately addressed.

Table 1 Actions Taken by the LAR UR2 WMA in Response to Petitioner Identified WMP "Inadequacies".		
LAR UR2 WMA WMP "Inadequacies" Referenced by Petitioners <sup>1</sup>	LAR UR2 WMA Summary Response (Provided to Regional Board Staff During Meetings) <sup>2</sup>	Modifications incorporated in the January 28, 2015 Revised and June 12, 2015 Approved Final LAR UR2 WMA WMP.
1) Failed to separately calculate wet and dry weather allowable pollutant loading;	Calculation of allowable pollutant loads requires a runoff volume. Permitted dry weather MS4 runoff volumes are variable and must be from authorized or conditionally exempt sources. Design storms were used to develop RAA volume and pollutant loads other than for trash.	In the Final WMP, Allowable Pollutant Loads are expressed using units from Permit Attachment O and percentages, rather than the equivalent imperial units, used in draft. The determination of RAA design storm wet weather allowable loads are revised and further clarified within Section 4.2.4 and Table 4-6 on Final WMP page 93.
2) Failed to provide any dry weather modeling	The Permit identified RAA models were intended to respond to runoff volumes and pollutant loads resulting from assumed rainfall input data. Modeling dry-weather flows and loads would assume criteria not approved in the Board issued March 25, 2014 RAA Guidelines.	Non-Stormwater (dry-weather) Discharge Control Measures are identified in Final WMP section 3.1.3 on page 39. Despite receiving runoff from over 4 square miles of the LAR UR2 WMA, and an approximately 120 square mile tributary watershed, dry-weather flows are typically absent from the Rio Hondo Reach 1
3) Failed to provide model outputs for interim WQBELs;	RAA model outputs were provided to the Board staff immediately following their request. Board staff was directed to Figures 5-1 to 5-6, which appeared to adequately address the question.	Existing Figures 5-1 to 5-6 were revised to use percentage load reductions of TMDL identified loads as shown in Tables 4-20 to 4-24, rather than the equivalent imperial units used in the June 28, 2014 first draft.
4) Failed to provide justification for 90th percentile rain years for use in model;	While the March 25, 2014 Board RAA guidelines provided our justification, other changes to the RAA resulted in the decision to significantly revise and expand Section 4 of the Final WMP.	Section 4 (Reasonable Assurance Analysis), of the Approved Final WMP, was substantially revised and supplemented with figures, discussion and subsections to better address the concerns of reviewers and increase understanding.
5) Failed to include category 2 and 3 pollutants in the RAA;	The assertion was discussed with Regional Board Staff and a consensus formed that, for RAA purposes, Category 2 and 3 pollutants were well represented by Category 1 pollutants.	Sections 2.4 and 4.2.3 were revised to better convey that Category 2 and 3 pollutants were sufficiently similar to Category 1 pollutants, to satisfy the RAA analysis. Monitoring will develop additional data for the Adaptive Management Plan.
6) Failed to calibrate the model to compare modeling results to real world data & adjust on that basis.	The lack of water quality data and small runoff contribution from LAR UR2 was discussed with Board staff. Downstream watershed calibration data was added to Section 4 of the Final WMP.	Section 4 (Reasonable Assurance Analysis), of the Approved Final WMP, was substantially revised and supplemented with figures, discussion and subsections to better address the concerns of reviewers and increase understanding.

<sup>1</sup> May 28, 2015 Petitioners' Memorandum of Points and Authorities beginning on Page 13, line 24. Inadequacies, referred to by the Petitioners, vary from those identified in the October 27, 2014 Board LAR UR2 WMA WMP Review Letter.

<sup>2</sup> Responses herein characterize discussions between LAR UR2 WMA representatives and Board staff during a December 3, 2014, meeting.

### **Regional Board Comments Referenced in Petitioner's Exhibit D Were Resolved**

The Petitioners are incorrect in assuming that all of the October 27, 2014, Regional Board Review Letter comments and questions necessitated a change in the draft WMP. Contrary to the Petitioners' allegations, in some cases, such as interim TMDL compliance and time series Pollutant reductions, Regional Board staff concurred during our meeting that other sections of the WMP sufficiently addressed their original concerns. In other cases, such as recommendations to consider using TMDL and Industrial General Permit monitoring data, a cordial informative discussion and candid assessment of the available information clarified the concerns of the LAR UR2 WMA groups concern with basing long term planning commitments on information of obvious limitations and sometimes very narrow or limited applicability. However, the LAR UR2 WMA has constructed **Table 2** to further clarify our perception of the outcome of those discussions and how the Approved Final WMP incorporates or addresses the other comments. In order to reduce confusion, a response to the Regional Board conditions identified on April 28, 2015, was provided with the June 12, 2015 Approved Final LAR UR2 WMA WMP, although many of the changes in Section 4 were voluntarily initiated to improve the understanding and clarity of this admittedly very complex document. Comments attributable to the June 28, 2014 WMPs, should be moot, as most of those documents have been replaced twice and the original drafts are no longer subject to implementation by the Permittees.

### **The WMP and Reasonable Assurance Analysis (RAA) Conformed to the RAA Guidelines**

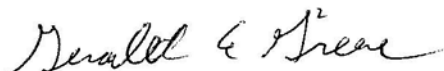
Regional Board staff and Permittee representatives invested months in WMP development, Reasonable Assurance Analysis (RAA) Guidelines development, the RAA itself, and revisions that resulted in the Approved Final LAR UR2 WMA WMP Plan. The LAR UR2 WMA made an RAA Approach presentation to Regional Board staff on January 27, 2014 and followed that approach in developing the June 28, 2014 Draft WMP. The robustness of that analysis is apparent, in that the results from incorporating the corrected deficiencies did not change the proposed extent of regional and distributed BMPs. The Final WMP did however include an approximately 3% increase in LID and Green Streets, due to the Permittees choosing to include an equal mix of retention and less effective flow through devices to provide an implementation alternative for specific projects that could not otherwise accommodate retention BMPs. Most of the changes in the Final LAR UR2 WMA WMP relate to clarifying commitments, conforming load units, visually representing data, specifying complex analysis steps, and translating the results into easily understood planned implementation actions for the individual LAR UR2 WMA Permittees.

### **Conclusions**

The LAR UR2 WMA urges the Regional Board to ratify the Executive Officer's April 28, 2015, decision to approve all nine WMPs, and extend the approval to include the June 2015 Final Submittals. The Executive Officers' Approval decisions should not be overturned. The Permittees, including the LAR UR2 WMA, have invested substantial time, effort, and resources, into the Draft, Revised, and Approved Final WMP Plans. The LAR UR2 WMA Permittees encourage the Regional Board members to consider the significant commitments contained in each WMP and reject the Petitioners request to overturn the Executive Officer's Approvals.

If you have any questions regarding this response or the WMP contents, or require additional information, please contact me at (714) 526-7500 Ext. 207 or [ggreene@cwecorp.com](mailto:ggreene@cwecorp.com).

Respectfully submitted,



Gerald E. Greene, DEnv, PE, QEP, QSD/P  
CWE Director Stormwater

Table 2 Actions Taken in Response to LAR UR2 WMA WMP "Inadequacies" Identified in Petitioners' Exhibit D.		
LAR UR2 WMA WMP "Inadequacies" Referenced in Petitioners Exhibit D	LAR UR2 WMA Summary Response (Provided to Regional Board Staff During Meetings) <sup>2</sup>	Modifications incorporated in the January 28, 2015 Revised and June 12, 2015 Approved Final LAR UR2 WMA WMP.
"The WMP did not model and pollutants in Categories 2 and 3. These pollutants or surrogates need to be included in the RAA, or supported justification for the use of the proposed limiting pollutants as surrogates for each Category 2 and Category 3 waterbody-pollutant combination."	The assertion was discussed with Regional Board Staff and a consensus formed that, for RAA purposes, Category 2 and 3 pollutants were suitably well represented by Category 1 pollutants.	Sections 2.4 and 4.2.3 of the Final WMP were revised to better convey that Category 2 and 3 pollutants were sufficiently similar to Category 1 pollutants, to satisfy RAA requirements. Monitoring will develop additional data for the AMP.
"...the WMP should utilize General Industrial Storm Water Permittee monitoring results...to assess and potentially refine estimates of pollutant loading from the identified "non-MS4" areas.	The assertion was discussed with Regional Board staff and some typical SMARTS monitoring data characterized. A consensus developed that the existing data was of insufficient quality to represent either General Industrial or other Industrial Sites.	WMP section 2.3 was modified to reiterate our prior findings and board staff acknowledgement that: 1) the majority of the SMARTS data did not meet the "defensible" standard; 2) there are insufficient land use categories in the current model to accommodate the many Industrial General Permittees; and 3) including these discharges could distort BMP designs.
"The draft WMP should consider existing TMDL modeling data, where available, when refining the source assessment.	The assertion was discussed with Regional Board staff to ascertain which TMDL models had been sufficiently characterized to allow source assessment refining, within the March 25, RAA Guidelines. None were identified.	WMP section 2.3 was expanded to explicitly state that prior findings from TMDL source assessments and models were inconclusive and overly broad for initiating actionable source assessments. One example being oversight of the impact of SB-346 on copper in the Los Angeles River Metals TMDL.
"A process and schedule for developing the required spatial information on catchment areas to major outfalls should be proposed, if this information does not already exist.	Board staff were directed to the CIMP which demonstrated that seven outfalls conveyed about 79% of the LAR UR2 WMA tributary area. Definition of remaining catchments would occur through the IC/ID and NSW Outfall Prioritization Permit programs.	This information was sufficiently developed to allow RAA and WMP development, but will be further refined through implementation of Permit IC/ID activities, CIMP Non-stormwater Prioritization, and source assessment MS4 Permit processes.
"The draft WMP does not clearly specify a strategy to comply with the interim WQBELs for the LA River metals TMDL...Further discussion of current compliance with the LA River nitrogen compounds TMDL, for which there is a final compliance deadline of 2004, is also needed..."	The BMP implementation schedules and Figures 5-1 to 5-6 were reviewed with Board Staff to clarify how they anticipated this comment. Data from the nitrogen RAA, showing that existing nitrogen loads were already below the allowable Loads, were shared with Board staff.	Section 4 of the Final WMP was completely reformatted and expanded to more clearly convey data developed for the draft RAA and WMP regarding nitrogen loads and compliance with interim WQBELs.

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"...the specific LID street projects and their locations are not identified. The draft WMP should provide as much specificity as feasible in describing the potential locations for LID streets. Additionally, the permittees that would be responsible for implementing LID street projects should be specified."	The LAR UR2 WMA asserted that WMP Table 4-19 addressed Permittee responsibilities for implementing Green and LID Streets. Board staff was advised that maintenance and reconstruction of streets is undertaken through each City's Capital Improvement Program and design modifications to include BMPs would first require the dedication of design funds by the City Council, whom are awaiting WMP approval.	Section 4 of the Final WMP was completely reformatted and expanded, including section 4.5.2 which now identifies examples of Green or LID streets currently under construction by LAR UR2 WMA Permittees. Cities with Pavement Management Plans or Systems, which guide the implementation of LID or Green Streets, were identified in WMP Sections 3.2.2 and 4.5.2.
"The WMP assumes a significant reduction in copper based on the phase-out of copper in automotive brake pads...to achieve the necessary copper load reductions...[A]dditional structural BMPs may still be needed to reduce copper loads prior to entering receiving waters and eliminate copper exceedances of RWLs."	Recent CASQA data, indicating that automotive industry conversion to <0.5% friction pads was proceeding at a more quickly than anticipated by the RAA or WMP was shared with Regional Board Staff. An additional "sensitivity" analysis was added and is summarized in Table 4-12.	Section 4 of the Final WMP was completely reformatted and expanded, including section 4.4.3 which includes a sensitivity analysis, included as Table 4-12, demonstrating that the RAA assumed 50% reduction, by 2028, in copper loads attributable to changing brake pad formulations, was conservative. Previously included RAA assumptions, regarding Copper Water Effects Ratios already adopted by the Regional Board, were excluded from the final RAA and BMP effectiveness "accounting" on Tables 4-22 and 4-23, and provide an additional margin of safety that water quality objective will be achieved by the interim and final dates.
"Table 1-5 should be updated...The concentration-based WQBELs for metals on page 78 are incorrect...."	We understand this comment to convey that Copper Water Effects Ratios, cannot be used until the adopted Basin Plan Amendment is fully effective. The RAA was revised.	Section 4 of the Final WMP was expanded and the LAR UR2 WMA RAA and WMP no longer include the change in water quality criteria resulting from the recently adopted LAR copper and lead Site Specific Objectives Amendment.
"The differences between baseline and allowable concentrations/loads should be presented in a time series...and then as a summary of 90 <sup>th</sup> percentile of the differences between pollutant and allowable concentrations/loads for wet weather periods, in units consistent with applicable WQBELs and Receiving Water Limitations..."	Table and figures in the WMP were revised to use units consistent with Permit identified WQBELs and Receiving Water Limitations. The LAR UR2 WMA explained that a time series was adequately addressed in Figure 5-1 to 5-6.	Section 4 of the Final WMP was significantly revised and expanded to address many of the Board Staff identified comments, including the initial choice of pollutant load units and analysis periods in the draft WMP. Figures 5-1 to 5-6 were also revised to to address comments on the pollutant load units and other requested changes in the RAA.

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"an explanation of the calculations used to derive target load reductions should be provided."	Concurred that additional details were warranted and then implemented as multiple changes within Section 4 and elsewhere.	Section 4 of the Final WMP was revised and expanded to better characterize the calibration and calculation steps used in the LAR UR2 WMA RAA and Approved Final WMP Plan.
"Model output should also be provided for phased BMP implementation to demonstrate that interim WQBELs for metals and bacteria will be met."	Draft and Final RAA model outputs were provided to Regional Board Staff and summarized in the draft and Approved Final WMP versions as Figures 5-1 to 5-6.	Section 4 of the Final WMP was significantly revised and expanded to address the comments. Figures 5-1 to 5-6 were further revised to address comments on pollutant load units and other requested changes in the RAA.
"The ID number for each of the 50 subwatersheds from the model input file should be provided and be shown in the simulation domain to present the geographic relationship of subwatersheds within the watershed area that are simulated in the LSPC model."	The requested information is available from the Draft and Final RAA model input and outputs data files provided to the Regional Board. Subwatershed geographic relationships are shown in Figures 3-1 to 3.3, but it was agreed that including 50 numeric identifiers in these figures was unnecessary.	The requested subwatershed ID numbers were provided, along with the Draft and Final RAA model input and outputs data files, to the Regional Board Staff.
"The flow, runoff volume and water quality....time series output at the watershed outlet as well as for each modeled subbasin should be provided using the 90 <sup>th</sup> percentile critical conditions....to estimate the baseline condition. In addition, per RAA Guidelines, the model output should include stormwater runoff volume and pollutant concentration/load at the outlet and for each modeled subbasin for each BMP scenario..."	The requested information is available from the Draft and Final RAA model input and outputs data files provided to the Regional Board. Providing printouts of this of data within the WMP was discussed with Regional Board staff and determined to be unnecessary.	The subject subwatershed time series, flow, volume, and pollutant data were provided, as part of the Draft and Final RAA model input and outputs data files, to the Regional Board Staff.
"identification of the 90 <sup>th</sup> percentile years in Table 4-2 needs to be supported with hydrological data to demonstrate the selected critical period will capture the variability of rainfall/storm sizes/conditions."	Concurred with Regional Board Staff Comment	Section 4 of the Final WMP was significantly revised and expanded to address several of the Regional Board and Petitioner comments. Table 4-1 and Figures 4-15 and 4-16 in particular address this comment.

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"Model simulation for copper, lead, zinc, nitrogen, and bacteria under the dry weather condition was not included in the Report and needs to be addressed."	The Permit identified RAA models were intended to respond to runoff volumes and pollutant loads resulting from assumed rainfall input data. Modeling dry-weather flows and loads would assume criteria not approved in the Board issued March 25, 2014 RAA Guidelines.	Non-Stormwater (dry-weather) Discharge Control Measures are identified in Final WMP section 3.1.3 on page 39. Despite receiving runoff from over 4 square miles of the LAR UR2 WMA, and an approximately 120 square mile tributary watershed, dry-weather flows are typically absent from the Rio Hondo Reach 1.

<sup>1</sup> Exhibit D accompanying May 28, 2015 Petition for Review of Los Angeles Regional Water Quality Control Board Executive Officer's Action to Conditionally Approve Nine WMPs Pursuant to the L.A. County MS4 Permit.

<sup>2</sup> Responses herein characterize discussions between LAR UR2 WMA representatives and Board staff during a December 3, 2014, meeting.