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Transmitted by email to ryan.mallory-jones@waterboards.ca.gov and others identified within the November 10, 2015, SWRCB Complete Petition Notification

Subject: SWRCB/OCC File A – 2386: 2012 Los Angeles County MS4 Permit – Response to Petition for Review of Regional Board Approval of Watershed Management Program Plans

Chair Felicia Marcus and SWRCB Members;

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. In reply to the State Water Resources Control Board staff letter of November 10, 2015, and on behalf of the LAR UR2 WMA Permittees, we offer this response to the subject *Petition for Review* filed with the State Board on May 28, 2015 and subsequent *Addendum for Petition for Review* filed on October 30, 2015 by the Natural Resources Defense Council, Los Angeles Waterkeeper, and Heal the Bay, henceforth identified herein as the "Petitioners".

While this reply primarily addresses factual and technical aspects of the LAR UR2 WMA Watershed Management Program (WMP) Plan development process, review, approval by Regional Board staff, and ratification of the staff approval by the Los Angeles Regional Water Quality Control Board, we encourage the State Board to initially consider the legal status of the Petition. This was summarized in the *MOTION AND SUPPORTING MEMORANDUM TO REJECT AS UNTIMELY AND MOOT CHALLENGES FILED BY NATURAL RESOURCES DEFENSE COUNCIL INC., LOS ANGELES WATERKEEPER, AND HEAL THE BAY TO LA REGIONAL BOARD DECISION ON WMPs*. The LAR UR2 WMA Permittees support the subject motion and encourage the State Board to promptly dismiss the May 28, 2015, Petition as moot and reject the October 30, 2015, Addendum as untimely, so that their attention may refocus on WMP implementation.

Should the State Board formally consider the Petition, or its Addendum, we encourage a prompt and direct affirmation of the September 10, 2015, Regional Board motion to ratify the approval of all nine Final WMP Plans. Your affirmation would fortify Permittee commitments and WMP implementation efforts, which are currently hampered by procedural distractions and trepidation regarding the Permit. The Permittees are fast approaching critical grant application junctures which must be successfully traversed in order to promptly initiate our highest priority projects. Overt State and Regional Water Board support, for the MS4 Permit and WMP Plan implementation, would facilitate local authorization of municipal resources to initially prepare and formally submit these critically important grant applications.

Petition Section IV.A.1 "Inadequate Reasonable Assurance Analysis, Receiving Water Quality Data, Model Calibration, and Verification"

Petitioners extensively commented on perceived Reasonable Assurance Analysis (RAA) inadequacies, repeatedly referencing a lack of model calibration comparisons against local "current conditions" data.

This comment neglects to acknowledge that most monitoring, current or otherwise, occurred at watershed mass emission and tributary sites, to reflect the larger watershed, so that little reach-specific water quality data exists upon which to assess an LAR UR2 WMA specific RAA calibration. Furthermore, during both dry and wet-weather conditions, the contribution from the WMA Permittees amount to less than 5 percent of the receiving water flow at the Rio Hondo and Los Angeles River confluence points, so it is unclear as to how this miniscule contribution of runoff or pollutants could be isolated from that of the remainder of the watershed. Regional Board staff, as members of the Technical Advisory Committee (TAC), substantially guided development of the RAA guidelines, precluding the potential for inappropriate input and analysis assumptions. In response to Regional Board staff RAA comments, and with their acknowledgment of our intended approach, the RAA calibration section of the Final LAR UR2 WMA WMP was extensively supplemented with additional relevant watershed level calibration assessments of flows, projected pollutant concentrations, and observed water quality data. The assumptions used in preparing and calibrating the LAR UR2 WMA RAA are similar to those used throughout the urban Los Angeles River watershed, just as the characteristics of our communities are similar to those of the greater watershed.

At the September 10, 2015, Regional Board hearing, both Board staff and Permittee representatives reiterated that the LAR UR2 WMA used elements of both the WMMS/LSPC and SBPAT permit-identified models to prepare, calibrate, and validate the RAA results. The LAR UR2 WMA WMP implementation strategy primarily emphasized retention-based watershed control measures which are generally more resilient and dependable, than maintenance dependent treatment Best Management Practices, ensuring the diversion of all pollutant categories found within the retained water volume. Implementation of the recently approved LAR UR2 WMA Coordinated Integrated Monitoring Program (CIMP) Plan will provide the best, and only non-speculative, discharge water quality monitoring data upon which to validate the local RAA and guide ongoing WMP implementation using relevant reach derived data.

Petition Section IV.A.2 “No Strategy to Comply with Interim WQBELs”

With respect to TMDL implementation, Petitioners comment that “in the Los Angeles River Upper Reach 2 group’s final WMP, there is still no provision of an actual strategy for future compliance or a documentation of past compliance.” Planning documents, such as the LAR UR2 WMA WMP, are ill- suited for documentation of past compliance, which is the primary function of the MS4 Permit Annual Reports that have been faithfully submitted by each Permittee, to the Regional Board, for a quarter century.

In contrast with the contentions of the Petitioners, Tables 3-8 and 5-1 through 5-5, of the Final LAR UR2 WMA WMP propose an implementation strategy including over forty watershed control measures and regional projects, with milestone dates. Using five Permit identified TMDL interim and final compliance dates, with intervals of between two and seven years, Figures 5-1 through 5-6 identify the primary proposed watershed control measures through which pollutant loads and runoff volumes will be reduced. These figures demonstrate that the planned implementation strategy mix including non-structural source controls, regional BMPs, Green, and LID Streets provide a reasonable assurance that regional water quality objectives will be met by the critical dates identified within the Regional Board TMDLs and Permit. At the September 10, 2015 Board hearing, it was iterated that the LAR UR2 WMA was among the first Permittees to identify the location, size, and estimated cost for constructing its WMP identified regional BMPs. A Request for Proposals to assess the feasibility of constructing the six primary Regional BMP Projects is circulating and responsive proposals are anticipated by the LAR UR2 WMA in February 2016.

Petition Section VI.A.3 “Inadequate Adaptive Management Process”

The contention by the Petitioners that the LAR UR2 WMA WMP contains an inadequate Adaptive Management Process (AMP) lacks merit. The LAR UR2 WMA WMP Plan proposes a balanced mix of over forty source control actions and projects, many recently implemented as a result of the WMP approval, while many others that will be implemented prior to permit renewal. While WMP modifications will likely result from CIMP implementation and locally derived monitoring data, a flexible AMP is critical to allowing the Permittees to adapt to these observations, acquire new knowledge, and test alternative hypotheses. A narrowly defined AMP would constrain the Permittees from effectively growing their knowledge base.

During the September 10, 2015 hearing, Regional Board staff testified that “contrary to the petitioners’ assertion, the permit provides structure, timeline and process information for adaptive and direction for adaptive management of Watershed Management Programs.” This testimony was thoughtfully processed and ultimately concurred with by the majority of the Regional Board members, with a single abstention.

Petition Section VI.A.4 “No Commitment to Meeting Interim Milestones and Final Deadlines”

The Petitioners contend that “In, addition most of the implementation actions in Table 5-1 will not occur or be complete until 2028 or later (and none prior to 2016).” Factually to the contrary, three of the eighteen projects identified on Table 5-1 had final implementation dates in 2015, two more during the current year, and one in 2017. Summarily stated, a third of the LAR UR2 WMA projects identified on Table 5-1 are anticipated for completion during the current permit term, or within two short years. We would also refer the State Board to Table 3-8 of the WMP, which identifies over one hundred non-structural watershed control measure completion dates, with even more to occur during the term of this permit, spread among the seven City Permittees. In juxtaposition to the fallacious contentions of the Petitioners, the LAR UR2 WMA Permittees are committed to both WMP and MS4 Permit implementation.

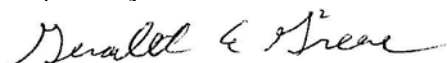
Conclusions

The LAR UR2 WMA Permittees have invested substantial time, effort, and resources, into their RAA, Draft, Revised, and Approved Final WMP Plans, which identify substantial and specific commitments, so that substantial water quality compliance may soon be achieved. While many of these commitments are now implemented, other more challenging and costly efforts will continue into the foreseeable future.

The LAR UR2 WMA Permittees encourage the State Board to promptly consider the motion identified in the introduction to this response letter, which should immediately result in the approval of all nine WMPs.

Should the Board determine to further consider the Petitioners inaccurate assertions, we would reiterate that after preparing and submitting the draft WMPs, each of the nine WMP groups thoughtfully considered Regional Board staff comments. The Permittees adopted the majority of the comments, met with Regional Board staff to clarify conflicting interpretations and identify comments that could not be supported with available data, made suggestions as to who the WMPs could be revised to address staff concerns, then proudly submitted our Revised WMPs. These nine Revised WMPs were then approved by the Regional Board Executive Officer, with conditions, and finalized. In his August 13, 2015, Approval Letter the LARWQCB Executive Officer, Mr. Sam Unger, stated *“I have determined that the ULAR2 Group’s WMP satisfies all the conditions identified in my April 28, 2015 approval letter.”* In response to the contentions of the Petitioners, the Regional Board met on September 10, 2015, thoughtfully considered the Final WMPs, comments and presentations of their staff, the Permittees, the Petitioners, and Consultant representatives for those stakeholders. The Board then voted, without dissension and only one abstention, to ratify the WMP approvals, issued by their Executive Officer, to each and every one of the nine WMPs, including that of the LAR UR2 WMA. The LAR UR2 WMA Permittees encourage the State Board members to consider the significant commitments identified within each WMP and reject the efforts of the Petitioners to overturn the approval by the Regional Board Executive Officer and subsequent ratification of that approval by Regional Board.

Respectfully submitted,



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