CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TIME SCHEDULE ORDER No. R2-2022-XXXX
REQUIRING
CITY OF PACIFICA
COUNTY OF SAN MATEO
MUNICIPAL SEPARATE STORM SEWER SYSTEMS

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER No. R2-2022-0018

The Executive Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) finds the following:

1. The Water Board reissued the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) for stormwater discharges from municipal separate storm sewer systems (MS4s), Order No. R2-2022-0018 (MRP 3), on May 11, 2022.

2. The City of Pacifica (City) and County of San Mateo (County) (jointly, Permittees) own and operate regulated MS4s under MRP 3. The Permittees each own MS4s that discharge into San Pedro Creek and Pacifica State Beach.

3. San Pedro Creek (Creek) and Pacifica State Beach (Beach) are listed as impaired water bodies under CWA section 303(d) due to high indicator bacteria levels. The listing of these water bodies as impaired is based on exceedances of bacterial water quality objectives for the water contact recreation beneficial use.

4. On November 14, 2012, the Water Board adopted Resolution No. R2-2012-0089, which amended the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) to establish a Total Maximum Daily Load (TMDL) to remedy the bacteria impairment at both the Creek and Beach. The TMDL established bacteria wasteload allocations (WLAs), in the form of a maximum allowable number of exceedances of bacteria water quality objectives at the Creek and Beach each year. The WLAs and actual number of exceedances of the bacteria water quality objectives for the Beach and Creek appear in Tables 1 and 2, respectively.

Table 1. Pacifica State Beach Allowable Exceedances of Bacteria Water Quality Objectives (WLAs) vs Actual Exceedances, for Weekly Sampling Water Years 2016-2020						
	Summer Dry Weather		Winter Dry Weather		Wet Weather	
Water Year	Allowed	Actual	Allowed	Actual	Allowed	Actual
2016	0	6	1	8	5	7
2017	0	9	1	0	5	11
2018	0	10	1	12	5	6
2019	0	10	1	5	5	7
2020	0	6	1	2	5	4

Table 2. San Pedro Creek Allowable Exceedances of Bacteria Water Quality Objectives (WLAs) vs Actual Exceedances, for Weekly Sampling Water Years 2016-2020				
	Dry Weather		Wet Weather	
WY	Allowed	Actual	Allowed	Actual
2016	1	32	4	9
2017	1	26	4	12
2018	1	33	4	5
2019	1	28	4	9
2020	1	21	4	5

5. The TMDL set forth a program of implementation that required the bacteria impairment at the Beach to be remedied by August 1, 2021. The program of implementation identified the MRP as a mechanism for controlling bacteria inputs to the Beach and Creek. While recognizing that stormwater controls alone would not be sufficient to address the entire problem, the implementation plan called for Permittees to identify sources of bacteria entering stormwater and implement control measures to address bacteria contributions from stormwater and dry weather discharges.

   To accomplish this, Permittees were to submit a plan, no later than six months prior to each stormwater permit expiration, that:

   (a) describes “best management practices (BMPs) that were currently being implemented and the current level of implementation, and additional BMPs that will be implemented, and/or an increased level of implementation of existing BMPs, to prevent or reduce discharges of bacteria from their storm drain systems that cause or contribute to exceedance of wasteload allocations.”

   (b) include(s) “water quality monitoring and reporting sufficient to characterize bacteria contributions from stormwater runoff and dry

weather flows and to evaluate the effect of bacteria reduction measures on water quality in the Creek and at the Beach, including determination of the annual number of exceedance days of the relevant bacterial water quality objectives… for each water body."

(c) includes "an implementation schedule to account for BMP implementation, and if necessary, trigger implementation of additional BMPs or increased level of implementation, sufficient to attain wasteload allocations."

6. The TMDL became effective on August 1, 2013, when it was approved by the U.S. EPA.

7. The TMDL anticipated that municipal regional stormwater requirements would require implementation of BMPs, not compliance with numeric limits, to achieve WLAs. The TMDL implementation plan provided that "wasteload allocations were not designed to be implemented directly as numeric effluent limitations applicable to a discharger, Pacifica, or San Mateo County." Instead, the discharger would achieve the wasteload allocations by demonstrating that it had fully implemented technically feasible, effective, and cost efficient BMPs to control all controllable sources to and discharges from their storm drain systems.

8. The previous MRP (Order No. R2-2015-0049, as amended) (MRP 2), Provision C.14, required the Permittees to implement control measures and to complete water quality monitoring to ensure compliance with the TMDL WLAs. In relevant part, Provision C.14.b.ii required weekly sampling of the Beach and Creek as follows: "(1) Sample Locations – Two stations shall be monitored to assess attainment of wasteload allocations for stormwater runoff and dry weather flows: the mouth of San Pedro Creek (Creek Mouth) and Pacifica State Beach (Linda Mar #5). (2) Sampling Frequency – The two attainment stations shall be monitored weekly on an ongoing basis for fecal indicator bacteria. The weekly sampling shall occur year-round regardless of weather conditions, provided the conditions are safe for field staff to collect the samples."

9. MRP 2 Provision C.14 required permittees to comply with the TMDL WLAs by August 1, 2021, for the Beach, and by August 1, 2028, for the Creek.

10. MRP 3 Provision C.14.b requires the Permittees to implement the BMPs and monitoring and to adhere to the implementation schedule identified in the TMDL for complying with the WLAs. MRP 3 Provision C.14.b continues the previous permit's requirements for weekly monitoring at the same locations, to ascertain TMDL WLA compliance. It also requires compliance with these deadlines by August 1, 2021, for the Beach, and by August 1, 2028, for the Creek.

Time Schedule Order Request

11. On July 30, 2021, the Permittees jointly submitted a request for additional time to comply with the MRP discharge requirements and achieve the TMDL WLAs at Pacifica State Beach.

12. The Permittees have made efforts to comply with the bacteria WLAs for Pacifica State Beach and have implemented required controls. These actions are summarized in Table 3, below.

13. Permittees' monitoring has not been sufficient to assess or demonstrate compliance with the MRP or with the WLAs, as discussed below.

    (a) The TMDL specifies the Beach water quality monitoring station "Linda Mar #5" as the monitoring station to be used to determine compliance with the WLAs. At the time of the TMDL adoption, this station was located at a point on the beach approximately 300 feet north of the Creek's discharge point to the Beach.

    (b) Prior to 2013, the Beach compliance monitoring station was moved by the San Mateo County Beach Monitoring program from Linda Mar #5 to a point immediately downstream of the Creek's discharge point. This move was done in anticipation of monitoring program changes prescribed in the Water Quality Control Plan for Ocean Waters of California, which required monitoring stormwater discharges (e.g., creek discharges) at "point zero" or at their immediate discharge point into the Ocean. Since the San Mateo County Beach Monitoring program called the sampling station at the new location by the same name as the previous location, Linda Mar #5, this relocation went unnoticed. The Permittees discovered the compliance monitoring station relocation in 2021, and, as of July 2021, have resumed monitoring at the original TMDL compliance monitoring site, which is now called Linda Mar #7 to prevent confusion.

    (c) The data collected at the relocated monitoring station at point zero may not accurately represent water quality at the Beach since the new location is heavily influenced by the Creek discharges. The location change also precludes the ability to track temporal trends in water quality and compare the more recent data to the years of water quality data collected prior to 2013.

    (d) As shown in Table 1, the water quality data collected at the "incorrect" compliance station for the Beach indicates that the exceedances of the bacteria water quality objectives are higher than the WLAs for the Beach.

Table 3. Control Actions Taken by Permittees to Date			
Action	**Source Addressed**	**Implementing Party**	**Timeline**
Improvements to sanitary sewer, such as sewer lines inspection and replacements, and infiltrating and inflow reduction	Sanitary Sewer Overflows	City	Ongoing, SSOs significantly reduced.
Sewer line inspections at County parks	Sanitary Sewer	County	Every 7 years starting in 2015. Next CCTV scoping in 2022.
Confined animal facility inspection in the watershed	Livestock and Pet Waste	City and County	Annual inspections of all three facilities in the watershed: Shamrock Ranch, Sweeney Ridge and Millwood Ranch
Pet waste cleanup stations	Pet Waste	City	Ongoing. 11 stations installed to date in the watershed.
Pet waste inspections/cleanup throughout the watershed	Pet Waste	City	Annually before Wet Season
Pet waste outreach	Pet Waste	City and County	Ongoing
Compliance water quality monitoring	N/A	County (County Environmental Health)	Weekly sampling
Water quality characterization monitoring	N/A	San Mateo Resource Conservation District on behalf of the City and County	Every two years

Water Code Provisions

14. California Water Code (Water Code) section 13300 provides:

> Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements

prescribed by the regional board…the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule for specific actions the discharger shall take in order to correct or prevent a violation of requirements.

15. Here, a discharge of waste is taking place or threatens to take place that violates requirements prescribed by the Water Board in MRP 3. The August 1, 2021, deadline for compliance with the WLAs for the Beach has already passed. The Permittees have not demonstrated compliance with the Beach WLA due to (1) a lack of monitoring at the correct Beach compliance site and (2) evidence that the Creek is not currently complying with its WLAs, either. Accordingly, a time schedule order under Water Code section 13300 is appropriate.

16. This Order describes steps that the Permittees must take in order to come into compliance with the MRP 3's TMDL requirements. If the Permittees comply with the requirements of this Order, it is not the Water Board's intention to take enforcement action for failing to comply with MRP 3's WLA deadline.

17. This Order requires the Permittees to undertake specific actions to demonstrate compliance with MRP 3's TMDL requirements. The established time schedule is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the MRP 3 TMDL requirements.

18. The Permittees propose to complete a Water Quality Monitoring Study to: 1) determine if they are meeting the WLAs for the Beach, during the wet and dry seasons, at the original compliance sampling location, using the San Mateo County Beach Monitoring program's weekly sampling data; 2) assess the spatial and temporal extent of the bacteria impairment at the Beach; and 3) understand the spatial distribution of bacteria discharges from the Creek in order to identify distinct sources of bacteria along the Beach. The study would involve inventorying and characterizing bacteria sources at or near the beach and identifying new BMPs that can be used to control bacteria discharges from the sources along the Beach or in the upland areas.

19. If the Water Quality Monitoring Study shows that the WLAs are not being achieved, then this Order requires the Permittees to implement additional BMPs, identified as part of the Water Quality Monitoring Special Study, to further reduce bacteria discharges and achieve compliance with the stormwater WLAs for Pacifica State Beach.

20. Further, since the Creek is still impaired and its discharges directly impact water quality at the Beach, this Order requires a higher level of implementation of existing BMPs, or implementation of new BMPs, for both the Creek and Beach, sufficient to address the exceedances, as described below.

21. This Order requires the Permittees to assess and repair or replace the sanitary sewer collection or storm sewer systems in areas within 1,000 feet of the Beach, as needed. These systems have the potential to result in the discharge of bacteria to the Creek and Beach. As such, the Order requires appropriate actions to assess and repair them, as necessary.

22. There have been substantial increases in populations experiencing unsheltered homelessness in the Bay Area. For example, according to the latest Point-in-Time counts, between 2017 and 2019, the South Bay, East Bay, and the San Francisco Peninsula saw an approximate 25 percent increase in their unsheltered homeless populations. This Order requires an assessment of the presence of unsheltered homelessness affecting the Creek and Beach water quality, and the implementation of measures to address adverse impacts resulting from associated discharges.

23. This Order requires the Permittees to repair the fence along the Crespi Canal, which is used to convey stormwater runoff, and clean up trash from the Canal, on an annual basis. Previous investigations by the Permittees have revealed the need for these actions. The broken fence could result in trash, pets, or other animals entering the canal and depositing waste and associated bacteria. The accumulated trash in the canal also has the potential to be a source of bacteria discharges to the Creek and Beach.

24. The results of the past water quality and visual monitoring have revealed the need for additional control measures to address pet waste discharges in the watershed. As such, this Order requires the Permittees to install and maintain additional pet waste stations at high priority locations within the watershed.

25. Water Code section 13383(a) provides in pertinent part as follows:

> The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements for any person who discharges, or proposes to discharge, to navigable waters.

26. All technical and monitoring reports required under this Order are required pursuant to Water Code section 13383. The Permittees' respective municipal separate storm sewer systems discharge to navigable waters, including the Creek and Beach. The technical and monitoring reports required by the Order are necessary to determine compliance with MRP 3 and this Order.

California Environmental Quality Act

27. This Order, which provides a time schedule of specific actions the Permittees shall take in order to correct a violation of existing permit requirements, is an enforcement action exempt from the provisions of the California Environmental Quality Act, Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14 (14 CCR), section 15321.

Public Notice

28. The Water Board notified the Permittees and interested agencies and persons of its intent to adopt this Order and provided them with a 30-day opportunity to provide comments and appear at a public hearing. The Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13300 and 13383, the Permittees shall comply with the following time schedule and reporting provisions:

1. To ensure compliance with applicable WLAs by **August 1, 2026**, the Permittees shall perform the tasks and submit the technical reports, as applicable, either individually or jointly, as set forth in Table 4 below:

Table 4. Implementation Actions	
Task	**Compliance Date**
I. Compliance Assessment and Sources and BMPs Identification Study	
1. Submit a Water Quality Monitoring Study plan, acceptable to the Executive Officer, to 1) assess compliance with the bacteria WLAs for the Beach; 2) determine the spatial and temporal extent of the bacteria impairment at the Beach; 3) understand the spatial distribution and influence of bacteria discharges from the Creek; 4) identify and characterize sources of bacteria discharges at and along the Beach; and 5) identify additional BMPs along the Beach or in the upland areas, as appropriate, to attain compliance with the bacteria WLAs for the Beach. The study area shall extend approximately 1,200 feet north of the Creek mouth to the northern extent of the parking lot and approximately 600 feet south of the Creek mouth to the southern extent of the Beach (study area). The plan, at a minimum, shall include: a. Spatial and temporal bacteria water quality monitoring within the study area and during both wet and dry seasons, to characterize bacteria	August 31, 2022

Table 4. Implementation Actions	
levels along the stretch of the Beach closer to the Creek mouth; b. Sampling at the original Beach TMDL compliance monitoring station, located approximately 300 feet northeast of the Creek discharge point to the Beach (called Linda Mar # 7 as of July 2021); c. Measurements of appropriate fecal indicator bacteria (e.g., *E. coli* in fresh water and *Enterococcus* in salt water); d. Measurements of species-specific human-, horse-, and dog-specific genetic markers (i.e., *Bacteroides*) during at least two dry and two wet season events; e. An updated inventory of potential bacteria sources within the study area; f. An updated assessment of the integrity of the waste handling facilities and infrastructure within the study area; g. An updated assessment of input from all inventoried sources, including the magnitude, timing, and significance of each discharge; and h. A timeline for implementing the plan, including key milestones such as commencement of water quality monitoring, data analyses, and completion of draft and final reports.	
2. Complete the Water Quality Monitoring Study, and submit a WLAs Attainment Assessment Report, which shall include the following: a. The raw data collected during the Special Study (from the San Mateo	March 15, 2024

Table 4. Implementation Actions	
County Beach Monitoring program's weekly sampling at Linda Mar #7); b. Analysis of data evaluating whether WLAs are being attained; and c. A description of the assumptions and methodology used to determine whether WLAs are being attained, which follows the TMDL methodology for calculating the WLAs. Water Board staff will timely review the WLAs Attainment Assessment Report and determine if the WLAs have been met.	
3. If the results of the WLAs Attainment Assessment show that compliance with the WLAs for the Beach is not attained, submit a report that identifies additional BMPs to be implemented, and the associated timeline, to attain compliance with the WLAs.	June 15, 2024
4. If needed, complete implementation of the additional BMPs identified to attain compliance with the WLAs for the Beach.	August 1, 2026
II. Control Measures to Achieve Indicator Bacteria Wasteload Allocations	
1. Complete a comprehensive map of the storm sewer system in the Creek watershed.	June 30, 2023
2. Complete a comprehensive video inspection of the storm sewer system in the Creek watershed.	June 30, 2023
3. Assess and repair or replace the sanitary sewer collection or storm sewer systems in areas within 1,000 feet of the Beach, as needed.	August 1, 2026

Table 4. Implementation Actions	
4. Identify and address discharges associated with unsheltered homelessness, such as those living in encampments and recreational vehicles (RVs), by measure such as, but not limited to: a. Management of homeless camps near streams with BMPs to control discharges of trash and human waste; b. Provision to homeless camps and RVs of trash pickup services and porta potties or other sanitary services; c. Targeted stormwater channel cleanups; and d. Outreach to encampment residents and RV occupants and owners.	Ongoing
5. Report on the implementation of measures taken to address discharges associated with unsheltered homelessness, on the Annual Progress Report.	Annually, by September 30 of each year, beginning on September 30, 2023
6. Submit a report that documents and summarizes the actions taken to repair the fence along the Crespi Canal, which is used to convey stormwater runoff.	September 30, 2022
7. Clean up trash from the Crespi Canal, prior to rainy season, on an annual basis, and more frequently as needed.	October 1, 2022, and annually, and more frequently as needed, thereafter

Table 4. Implementation Actions	
8. Identify high-priority dog waste-generation areas via visual inspections of popular dog walking areas within the Creek watershed and install and maintain, on a monthly basis, new dog waste clean-up signs, waste bag dispensers, and trash cans at a minimum of 10 (ten) high priority locations within the watershed. Each site shall receive a sign, bag dispenser, and trash can.	June 30, 2023
III. Annual Progress Reporting	
1. The Permittees shall submit an Annual Progress Report. The Annual Progress Report shall include the following: a. Summary of progress to date, including updates on identified tasks within the TSO; b. Identification of any delays, explanation for the delays, and how the delays will be addressed; and c. Activities planned for the following year.	Annually, by September 30 of each year, beginning on September 30, 2023

2. Any person signing a document submitted under this Order shall make the following Certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

3. In accordance with Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments performed by or under the direction of registered professional competent and proficient in the fields pertinent to the required activities. All technical documents specified herein that contain work plans for, that described the conduct of investigations and

studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction or appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Permittees shall contain the professional's signature and/or stamp of the seal.

4. The Permittees shall submit, or cause to be submitted, all reports required under this Order into the State Water Resources Control Board Storm Water Multiple Application & Report Tracking System (SMARTS) database.

5. If either Permittee fails to comply with a provision of this Order, the Water Board may take any further action authorized by law against that Permittee, including, but not limited to, enforcement action pursuant to Water Code sections 13350 and 13385. The Water Board may also refer this matter to the Attorney General for judicial enforcement.

6. The Water Board may reopen this Order at its discretion or at the request of any of the Permittees if warranted.

Any person aggrieved by this Water Board action may petition the State Water Board for review in accordance with Water Code section 13320 and 23 CCR section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m. on the 30th day after date of this Order, except that if the 30th day falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Laws and regulations applicable to filing petitions (https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) are published on the Internet and will be provided upon request.

I, Eileen White, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on XXXX, 2022.

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Eileen White
Executive Officer