



San Gabriel Valley Council of Governments

AGENDA AND NOTICE OF THE JOINT MEETING OF THE WATER POLICY COMMITTEE & WATER TECHNICAL ADVISORY COMMITTEE (TAC)

Tuesday, November 10, 2020, 10:00 AM

Teleconference Meeting: Livestream available via sgvcog.org

Water Policy Chair

Gloria Crudgington
City of Monrovia

Vice-Chair

Diana Mahmud
City of South Pasadena

MEMBERS

*Claremont
Glendora
Monrovia
Rosemead
Sierra Madre
South Pasadena
LA County District 1*

Water TAC

Chair
Alex Tachiki
City of Monrovia

Vice Chair

Tom Love
Upper San Gabriel Valley
Municipal Water District

MEMBERS

*Alhambra
Arcadia
Bradbury
Covina
Duarte
Glendora
Monrovia
Pomona
Sierra Madre
LA County DPW
Upper San Gabriel Valley
MWD*

EX-OFFICIO

*LA County Sanitation
Districts
SG Basin Watermaster*

Thank you for participating in today's meeting. The Water Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the Water Committee are held on the second Tuesday of each month at 10:00 AM at the Upper San Gabriel Valley Municipal Water District Offices (602 E. Huntington Drive, Suite B Monrovia, CA 91016).* The agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvcog.org. Copies are available via email upon request (sgv@sgvcog.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

PUBLIC PARTICIPATION: Your participation is welcomed and invited at all Water Committee and Water TAC meetings. Time is reserved at each regular meeting for those who wish to address the Committee. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Water Committee and Water TAC may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Water Committee and the Water TAC. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Committee/TAC can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



MEETING MODIFICATIONS DUE TO THE STATE AND LOCAL STATE OF EMERGENCY RESULTING FROM THE THREAT OF COVID-19:

On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 authorizing a local legislative body to hold public meetings via teleconferencing and allows for members of the public to observe and address the meeting telephonically or electronically to promote social distancing due to the state and local State of Emergency resulting from the threat of the Novel Coronavirus (COVID-19).

To follow the new Order issued by the Governor and ensure the safety of Board Members and staff for the purpose of limiting the risk of COVID-19, in-person public participation at the Water Committee/TAC meeting scheduled for Tuesday, November 10 at 10:00 a.m. will not be allowed. Members of the public may view the meeting live at <https://www.youtube.com/watch?v=cXlMBrIhK5Y>.

Submission of Public Comments: For those wishing to make public comments on agenda and non-agenda items you may submit comments via email or by phone.

- Email: Please submit via email your public comment to Samantha Matthews at smatthews@sgvcog.org at least 1 hour prior to the scheduled meeting time. Please indicate in the Subject Line of the email “FOR PUBLIC COMMENT.” Emailed public comments will be part of the recorded meeting minutes. Public comment may be summarized in the interest of time, however the full text will be provided to all members of the Committee prior to the meeting.
- Phone: Please email your name and phone number to Samantha Matthews at smatthews@sgvcog.org at least 1 hour prior to the scheduled meeting time for the specific agenda item you wish to provide public comment on. Please indicate in the Subject Line of the email “FOR PUBLIC COMMENT.” You will be called on the phone number provided at the appropriate time, either during general public comment or specific agenda item. Wait to be called upon by staff, and then you may provide verbal comments for up to 3 minutes.

Any member of the public requiring a reasonable accommodation to participate in this meeting should contact Samantha Matthews at least 48 hours prior to the meeting at (626) 457-1800 or email smatthews@sgvcog.org.

PRELIMINARY BUSINESS

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*).
4. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to next regular meeting.

CONSENT CALENDAR (*It is anticipated that the Water Committee/TAC may act on the following matters*)

5. Water Committee/TAC Meeting Minutes – Page 1
Recommended Action: Approve October 13, 2020 Water Committee/TAC meeting minutes.

PRESENTATIONS

6. San Gabriel Valley Greenway Network Strategic Implementation Plan – Enrique Baul Jr., PE, Civil Engineer, Stormwater Planning Division, Los Angeles County Flood Control District – Page 6
Recommended Action: For information only.
7. Metropolitan Water District Regional Recycled Water Program – Rupam Soni, Principal Public Affairs Representative, Metropolitan Water District of Southern California – Page 28
Recommended Action: For information only.

ACTION ITEMS

8. Tentative 2020 Municipal Separate Storm Sewer System (MS4) Permit – Page 49
Recommended Action: Provide direction on comments for submittal to the Los Angeles Regional Water Quality Control Board on the MS4 Permit.
9. 2021 Legislative Priorities – Page 88
Recommended Action: Recommend proposed 2021 Legislative Priorities to the Governing Board for approval.

UPDATE ITEMS (*It is anticipated that the Water Committee/TAC may act on the following matters*)

10. State Water Resources Control Board Second Proposed Order on Approval of Watershed Management Programs and an Enhanced Watershed Management Program – Page 90
11. Safe Clean Water Program – Page 95
12. Legislative Updates
 - a. 2020 Senate Bill 205 (SB 205) Workshop
13. Litigation Update
14. E/WMP Updates
15. Water TAC Chair Report
16. Water Supply Update
17. Water Boards Update
18. Southern California Regional Energy Network (SoCalREN) Public Agency Programs

CHAIR'S REPORT

ANNOUNCEMENTS

ADJOURN



**SGVCOG Joint Water Policy Committee/TAC Meeting
Unapproved Minutes**

Date: October 13, 2020
Time: 10:00 AM
Location: Zoom/YouTube teleconference meeting

PRELIMINARY BUSINESS

1. Call to Order: The meeting was called to order at 10:03 A.M.
2. Roll Call

Water Policy Committee Members Present

J. Stark; Claremont
G. Boyer; Glendora
G. Crudgington; Monrovia
M. Clark; Rosemead
D. Mahmud; South Pasadena

Water Policy Committee Members Absent

LA County District #1
Sierra Madre

Water TAC Members Present

D. Dolphin; Alhambra
K. Kearney; Bradbury
S. Costandi, S. Gallant; Covina
Y. Paez; Duarte
R. Wang; LA County Public Works
A. Tachiki; Monrovia
J. Carver; Pomona
J. Carlson; Sierra Madre
T. Love, P. Cortez; USGVMWD

Water TAC Members Absent

Arcadia
Glendora
SGVMWD

Ex Officio Members Present

S. Green; LA County Sanitation Districts
K. Gardner, L. Augino; SG Basin Watermaster

Ex Officio Members Absent

Guests

J. Lee; South Pasadena, Future Committee Member
C. Boschen; Tetra Tech
B. Datti; Craftwater Engineering
C. Helme; Craftwater Engineering
C. McCullough; JLHA

SGVCOG Staff

S. Matthews
C. Sims

3. Public Comment
No public comment at this point in the agenda.
4. Changes to Agenda Order.

Chair moved item 9 to before item 8.

CONSENT CALENDAR

5. Water Committee/TAC September Meeting Minutes

There was a motion to approve the Water Committee/TAC September meeting minutes.

(M/S: D. Mahmud/D. Dolphin)

[MOTION PASSED]

| | |
|-----------------|--|
| AYES: | Committee – Claremont; Monrovia; Rosemead; South Pasadena TAC – Alhambra; Bradbury; Covina; Monrovia; Pomona; Sierra Madre; LA County Public Works; Sierra Madre; USGVMWD |
| NOES: | |
| ABSTAIN: | |
| ABSENT: | Committee – Glendora, LA County District 1; Sierra Madre TAC – Arcadia; Duarte; Glendora; SGVMWD |

6. Water TAC September Meeting Minutes

There was a motion to approve the Water TAC September meeting minutes.

(M/S: D. Dolphin/A. Tachiki)

[MOTION PASSED]

| | |
|-----------------|---|
| AYES: | Alhambra; Bradbury; Covina; Monrovia; Pomona; Sierra Madre; LA County Public Works; Sierra Madre; USGVMWD |
| NOES: | |
| ABSTAIN: | |
| ABSENT: | Arcadia; Duarte; Glendora; SGVMWD |

ACTION ITEMS

7. Election of Chair and Vice Chair of TAC

Water TAC Chair asked for nominations.

There was a motion to elect Alex Tachiki as Chair and Tom Love as Vice Chair of the Water TAC.

(M/S: J. Carlson/D. Dolphin)

[MOTION PASSED]

| | |
|-----------------|---|
| AYES: | Alhambra; Bradbury; Covina; Monrovia; Pomona; Sierra Madre; LA County Public Works; Sierra Madre; USGVMWD |
| NOES: | |
| ABSTAIN: | |
| ABSENT: | Arcadia; Duarte; Glendora; SGVMWD |

- 9. State Water Resources Control Board Second Proposed Order on Approval of Watershed Management Programs and an Enhanced Watershed Management Program**
C. Helme provided overview of the implications of the State Water Board Order which suggests that RAA requires justification. A. Tachiki noted that this would require additional work, money for consultants to do and there is no guidance as to when to do this. At the same time, the 2012 Permit directs RAA revision by June 2021 and Cities are

working on this now as it takes 6 to 9 months to complete. The State Board order would then direct a second RAA to be completed in 2021 which is highly unreasonable.

8. Tentative 2020 Municipal Separate Storm Sewer System (MS4) Permit

R. Tahir provided the following public comment on the MS4 Permit:

Part V.A-D, addresses compliance receiving water limitations (WQS/TMDLs), determined by measuring outfall discharges against numeric effluent limits establish for receiving waters for the protection of beneficial uses. Attachment F (Fact Sheet, Pages 171-172) makes clear that part V.A-D., which is the same language contained in the 2001 MS4 Permit does not provide a safe harbor as the following excerpts reveal:

- The State and Los Angeles Water Boards have stated that each of the three provisions are independently applicable, meaning that compliance with one provision does not provide a “safe harbor” where there is non-compliance with another provision (i.e., compliance with the third provision does not shield a Permittee who may have violated the first or second provision from an enforcement action).
- The Receiving Water Limitations provisions of the 2001 Los Angeles County MS4 permit (Order No. 01-182) have been litigated twice, and in both cases the courts have upheld the language and the State and Los Angeles Water Boards’ interpretation of it. Both courts ruled that the first two provisions are independently applicable from the third provision that establishes the “iterative process” requirements and no “safe harbor” exists.
- The provisions were first litigated in 2005 where the Los Angeles County Superior Court stated, “In sum, the Regional [Water] Board acted within its authority when it included Parts 2.1 and 2.2 in the Permit without a ‘safe harbor’
- The upshot of all this is that regional board is not required to provide a safe harbor in an MS4 permit. This includes a safe harbor for complying with an E/WMP. The E/WMP cannot provide safe harbor because there is no evidence that it can meet water quality standards by constructing infiltration controls. Nothing in the 2012 or its clone, mentions anything about E/WMPs providing safe harbor.

B. Datti reviewed our key comments and requested changes to the MS4 Permit related to fiscal resources, monitoring and reporting, and Measure W integration. The Committees also discussed strategy for outreach to NGOs, Supervisors, League of CA Cities, and other Permittees. There was also a discussion on the MS4 Permit adoption delay letter and the need to reflect the needed order of operations with regard to the State Board order and the RAA revisions.

There was a motion to bring back the Permit comments and approve the comment letter at the next meeting on November 10.

(M/S: D. Mahmud/J. Stark)

[MOTION PASSED]

| | |
|--------------|---|
| AYES: | Committee – Claremont; Monrovia; Rosemead; South Pasadena |
|--------------|---|

| | |
|-----------------|---|
| | TAC – Alhambra; Bradbury; Covina; Monrovia; Pomona; Sierra Madre; LA County Public Works; Sierra Madre; USGVMWD |
| NOES: | |
| ABSTAIN: | |
| ABSENT: | Committee – Glendora, LA County District 1; Sierra Madre TAC – Arcadia; Duarte; Glendora; SGVMWD |

There was a motion to recommend the Governing Board direct staff to work with the Water Policy Committee to submit a letter to the Regional Board reflecting the need to ensure that, in the adoption of the new MS4 Permit, Permittees are only required to complete a reasonable assurance analysis (RAA) once.

(M/S: D. Mahmud/J. Stark)

[MOTION PASSED]

| | |
|-----------------|---|
| AYES: | Claremont; Monrovia; Rosemead; South Pasadena |
| NOES: | |
| ABSTAIN: | |
| ABSENT: | Glendora, LA County District 1; Sierra Madre |

UPDATE ITEMS

10. EPA Proposed 2020 Financial Capability Assessment for Clean Water Act Obligations

COG staff will submit a comment letter on the FCA to the EPA.

11. Safe Clean Water Program

A. Tachiki announced that SIPs are being approved by Board of Supervisors on October 13.

12. Legislative Update

Legislative updates and priorities to be discussed at next meeting.

13. Litigation Updates

Chair provided updated on NRDC and LA Waterkeeper's hearing on the 2012 MS4 Permit litigation.

14. E/WMP Updates

No updates.

15. Water TAC Chair Report

No updates.

16. Water Supply Update

T. Love provided update. There is no projection on rainfall in this fall. SGVCOG EENR meeting will feature presentation on Metropolitan Water District RRWP presentation. Key well hovering under 200 feet.

17. Water Boards Update

S. Green announced that MWD is offering virtual tours of RRWP and Committee should have presentation at a future meeting.

18. 2020 California Financing Coordinating Committee Virtual Funding Fair

CHAIR'S REPORT

ANNOUNCEMENTS

ADJOURN

Meeting adjourned at 12:19 P.M.

REPORT

DATE: November 10, 2020

TO: Water Policy Committee/TAC

FROM: Marisa Creter, Executive Director

RE: **SAN GABRIEL VALLEY GREENWAY NETWORK STRATEGIC IMPLEMENTATION PLAN**

RECOMMENDED ACTION

For information only.

BACKGROUND

In 2014, the SGVCOG and ActiveSGV, formerly known as BikeSGV, were awarded funding from Caltrans Active Transportation Program (ATP) to conduct a regional Greenway Feasibility Study to identify flood control channels, abandoned railways, and utility rights-of-ways to be transformed into bikeways, urban trails, and parks. The San Gabriel Valley Regional ATP Feasibility Study identified 50 miles of waterways best suited for greenway implementation.

In 2017, the Los Angeles County Board of Supervisors unanimously passed a "San Gabriel Valley Regional Greenway Network Implementation Plan" motion authored by Supervisors Solis and Barger. The San Gabriel Valley Greenway Network (Greenway Network) will promote cohesive travel throughout the region while advancing public health, public safety, mobility and accessibility, economic development, stormwater management, and greenhouse gas reduction.

The Los Angeles County Flood Control District's (LACFCD) San Gabriel Valley Greenway Network Strategic Implementation Plan builds upon the SGVCOG's ATP Feasibility Study. The plan's purpose is to transform approximately 138 miles of existing LACFCD right-of-way into the Greenway Network and to incorporate the needs of the communities, bridge gaps between existing planning efforts, and identify and prioritize project opportunities.

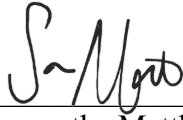
The project schedule for developing the San Gabriel Valley Network Strategic Implementation Plan is as follows:

| Task | Status |
|---|--------------------------|
| Review of Existing Studies and Planned Projects | Completed |
| Study of Existing Conditions | February 2021 |
| Database & GIS Mapping | February 2021 |
| Public Engagement & Community Meetings | Early 2021 |
| Greenway Network Plan | Fall 2021 |
| Environmental Documentation | Summer 2022 |
| Steering Committee and Technical Advisor Meetings | Ongoing until Completion |

REPORT

Enrique Baul Jr., Civil Engineer of the Stormwater Planning Division at the Los Angeles County Flood Control District, will provide an update on the strategic implementation plan process at this meeting.

Prepared by:



Samantha Matthews
Management Analyst

Approved by:



Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Presentation



San Gabriel Valley Greenway Network Strategic Implementation Plan

SGV Greenway Network Strategic Implementation Plan

The Plan builds upon the SGVCOG's Active Transportation Planning Initiative - Greenway Feasibility Study

Purpose »

- Transform approximately 138 miles of existing LACFCD right-of-way into a world-class Greenway Network
- Develop a comprehensive Plan that incorporates the needs of the communities, bridges gaps between existing planning efforts, and identifies and prioritizes project opportunities

Milestones »

- Completion of Plan - Fall 2021
- Environmental Documentation Completion - Summer 2022

Attachment A



Steering Committee Members

Agency Partners

- Board of Supervisors, SD1, SD4, SD5
- Southern California Association of Governments (SCAG)
- San Gabriel Valley Council of Governments (SGVCOG)
- Rivers and Mountains Conservancy (RMC)
- Los Angeles County Flood Control District
- Los Angeles County Public Works

Active Transportation Stakeholder

- Active SGV

Native American Stakeholder

- Native American Indian Commission

Youth Advocacy Stakeholder

- SGV Conservation Corps

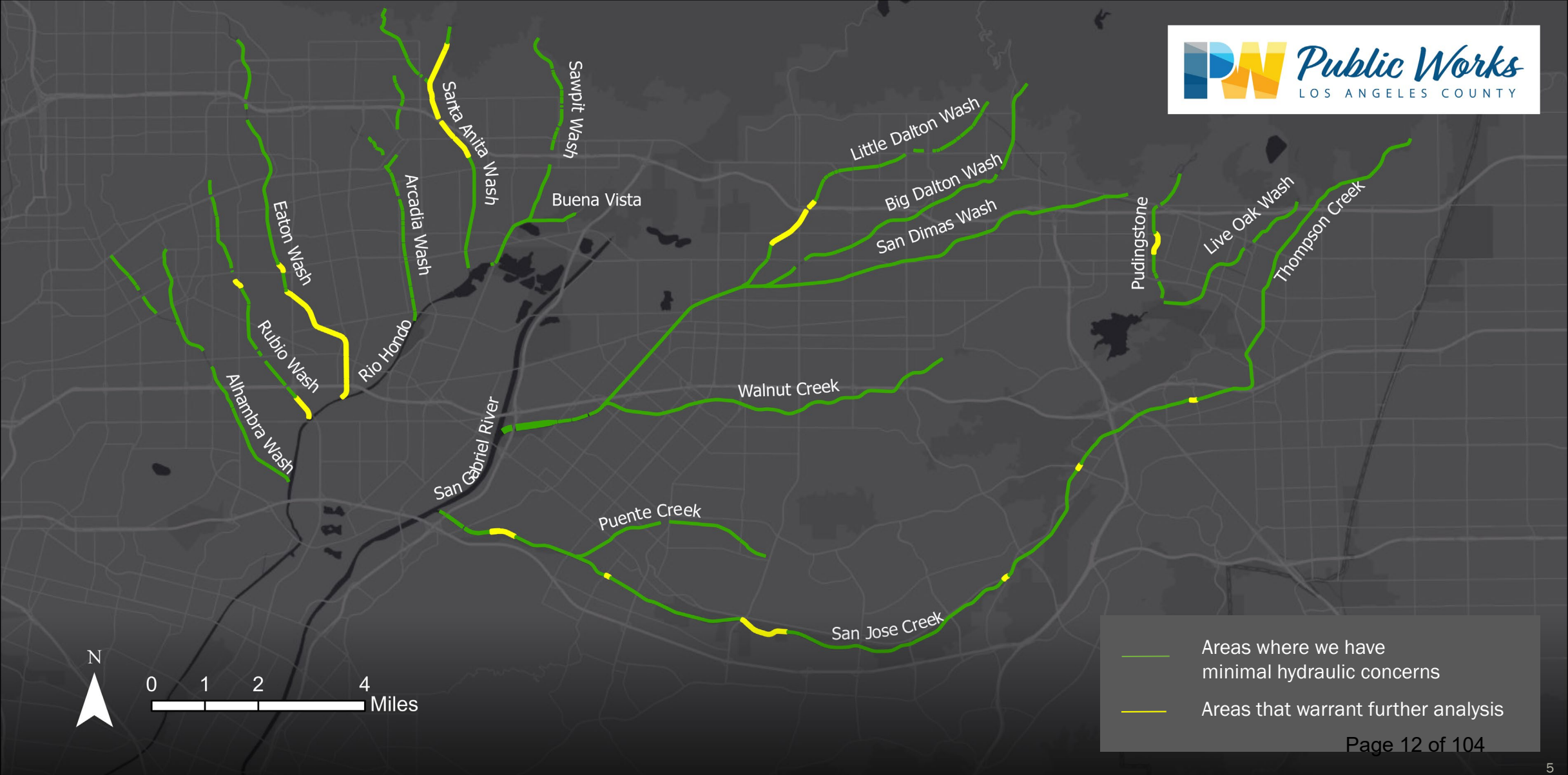
Environmental/Social Justice Stakeholder

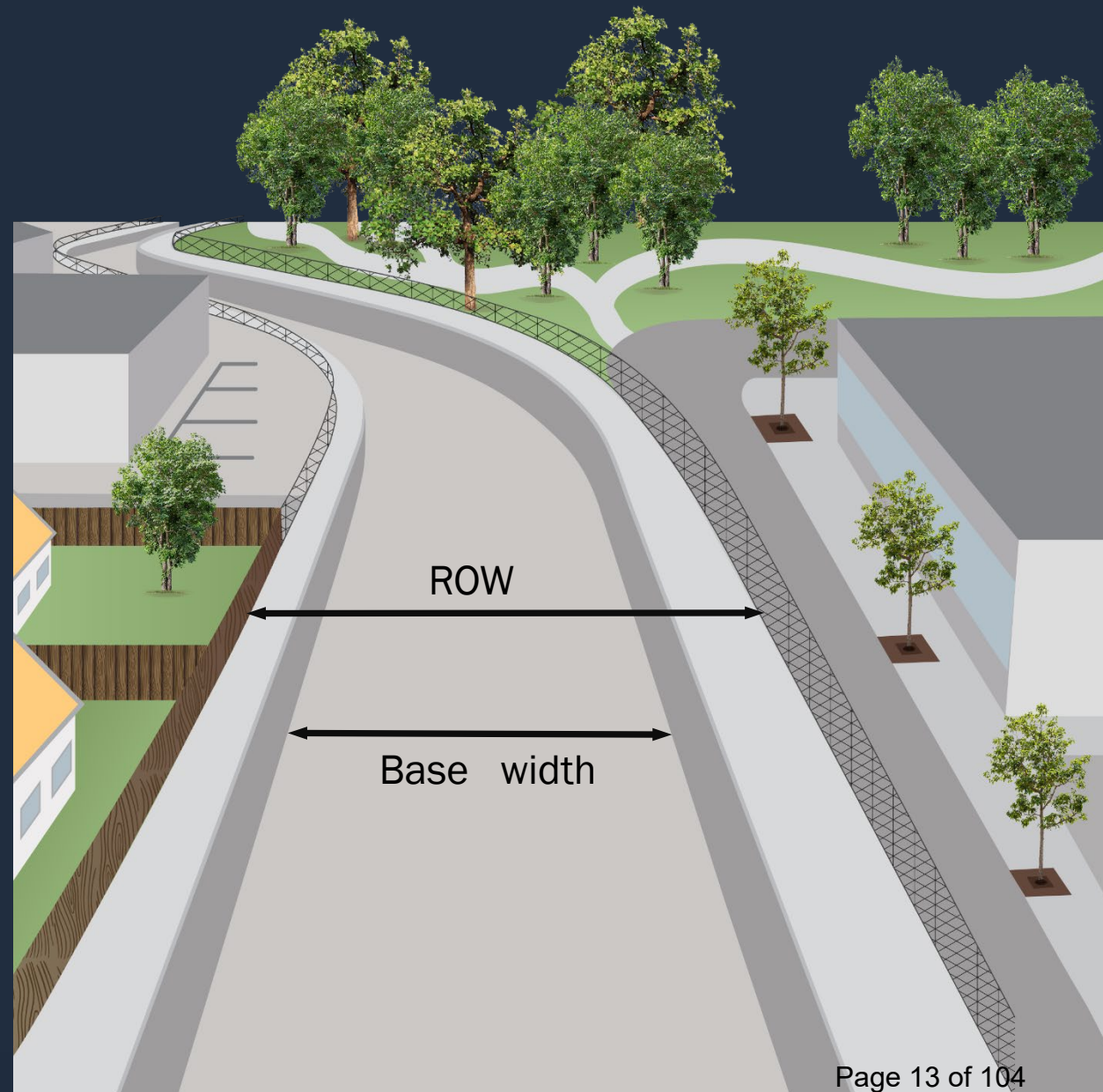
- Nature For All

Parks/Open Space Stakeholder

- Trust For Public Land

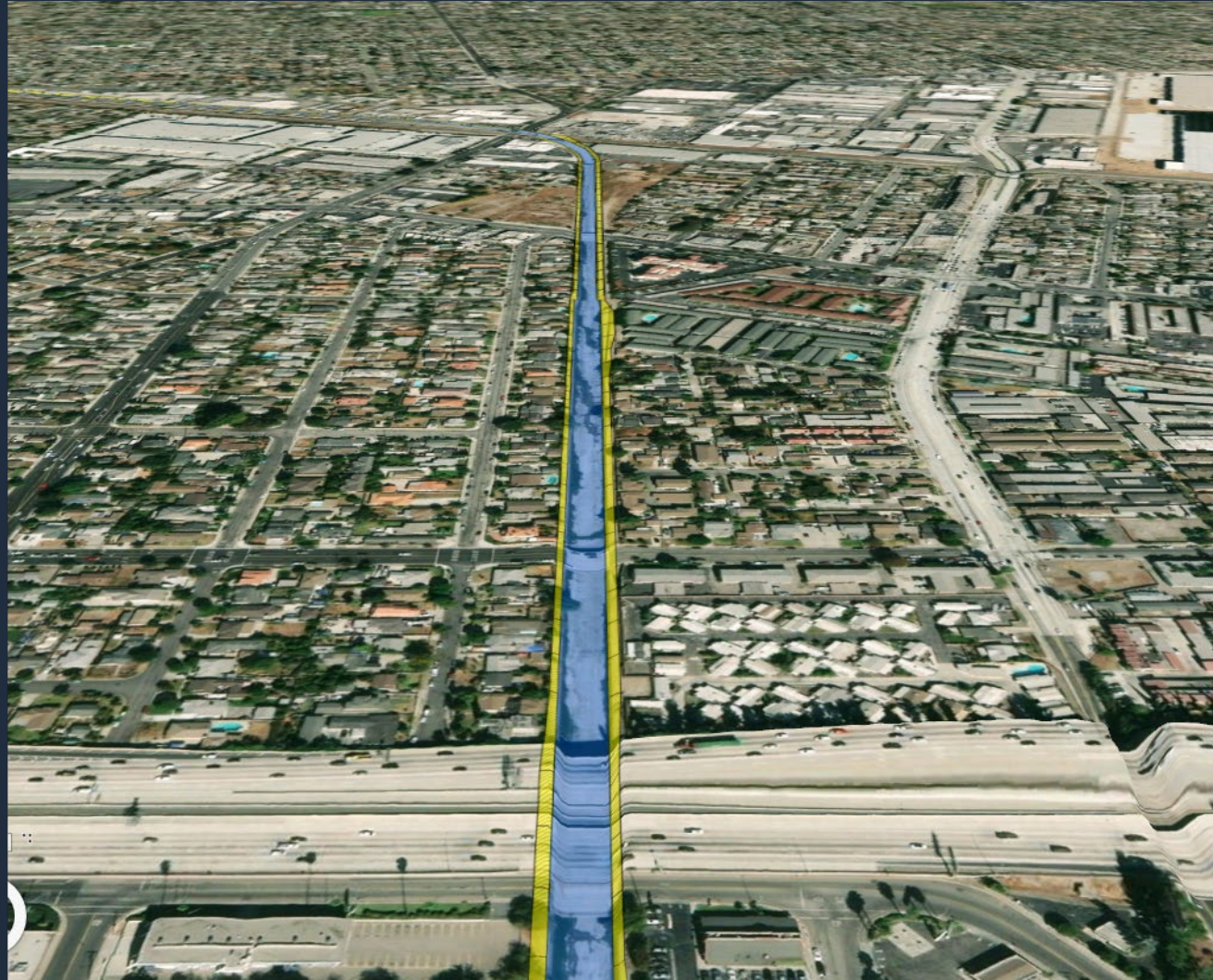
Channel Capacity Results





Right-of Way Analysis

Attachment A



Project Prioritization Lenses

Community

- population density, disadvantaged community, pollution, park need

Circulation

- activity generators, connectivity

Existing Projects

- previously planned projects

Regulatory

- environmental analysis, regulatory constraints

Complexity/Costs

- crossings, Intersections, increased cost

Eaton Wash

Community

- Population Density:
- Around **150,000 people** live adjacent to Eaton Wash
 - **Finding:** The most dense areas are: **El Monte, San Gabriel, and parts of Pasadena** (Census 2010)

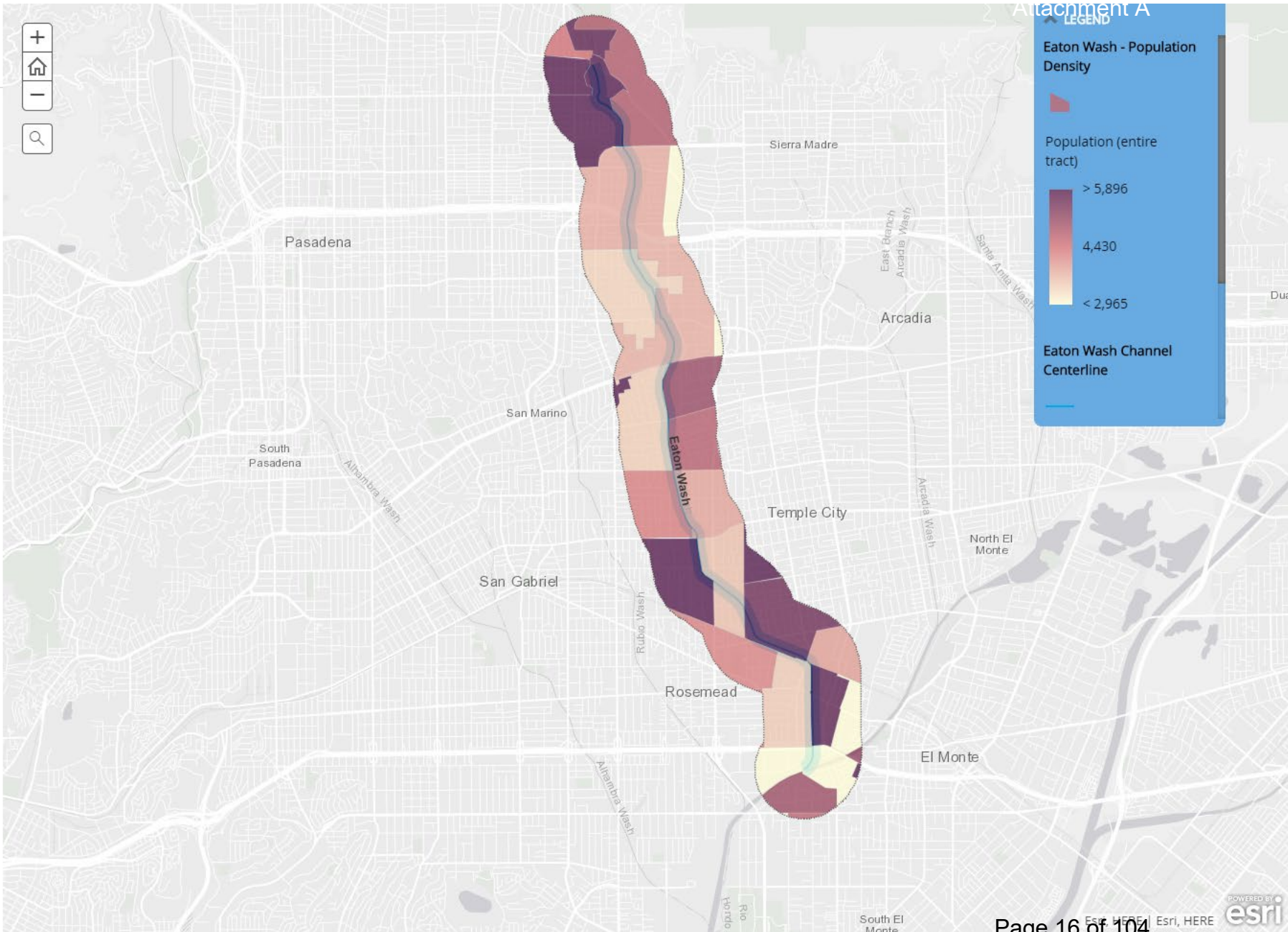
Community

- Environmental Burden:
- Environmental burden scores ([CalEnviroScreen](#)) vary greatly throughout the corridor
 - **Finding:** The most environmentally burdened populations are in the southern portion of the Wash; **Rosemead, El Monte, and San Gabriel**

Community

- Park Need:
- Based on demographics and park density, the Department of Parks and Recreation's [Park Needs Assessment](#) assigns scores to different areas between "Low" (1) and "Very High" (5)
 - **Finding:** According to the study; the areas with greatest park need are in the southern communities along Eaton Wash; **Temple City, El Monte, and parts of East San Gabriel**

Circulation



Eaton Wash

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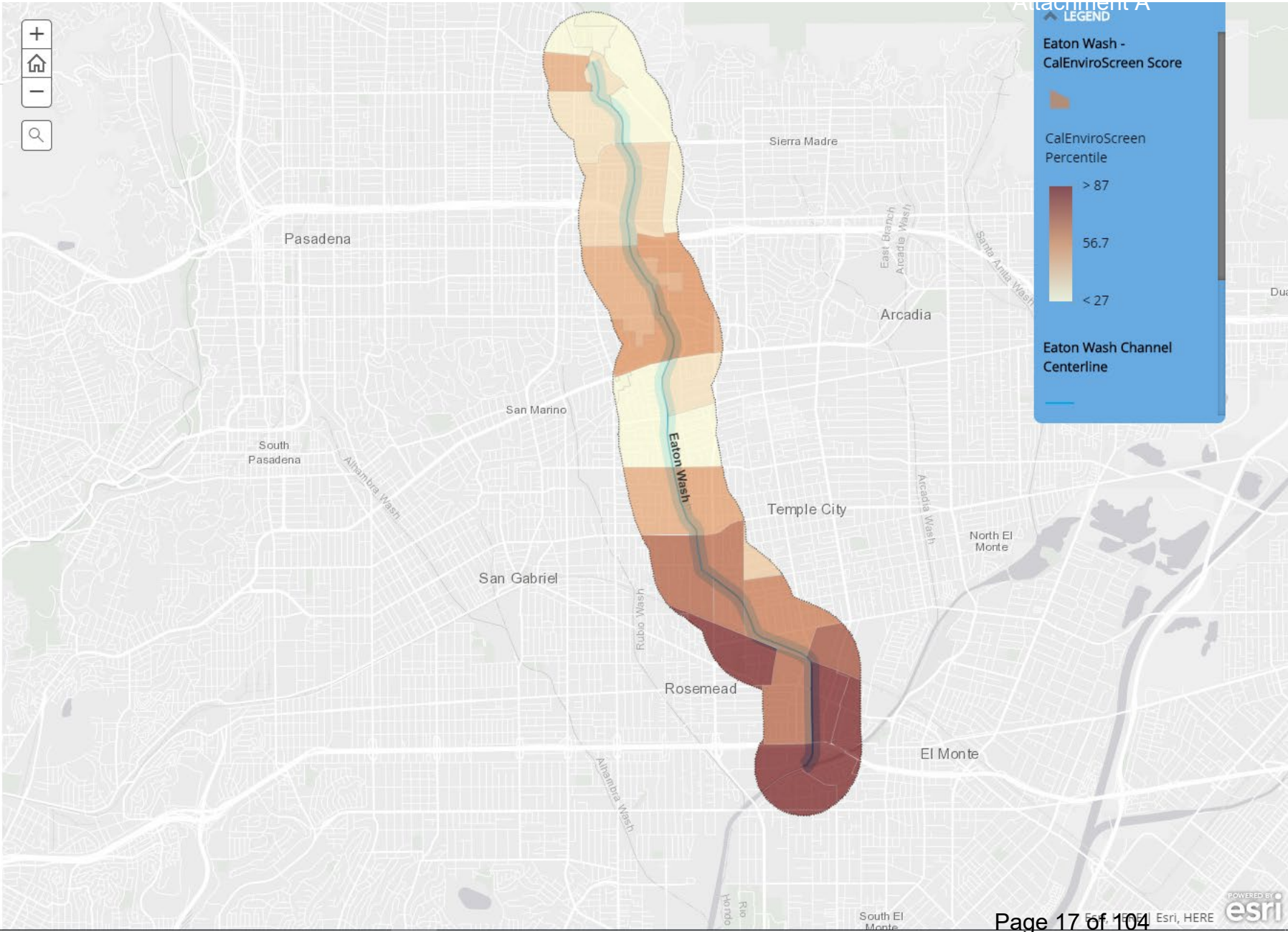
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Circulation

Activity Generators:

- Data compiled from County Records and Open Street map data
- **Finding:** Eaton Wash is Adjacent to **11 Schools**
- There are **Industrial, Commercial, and Retail** land use areas throughout the corridor
- **Finding:** There are **fewer** activity generators between **Muscatel Ave. and Colorado Blvd**



Eaton Wash

Community

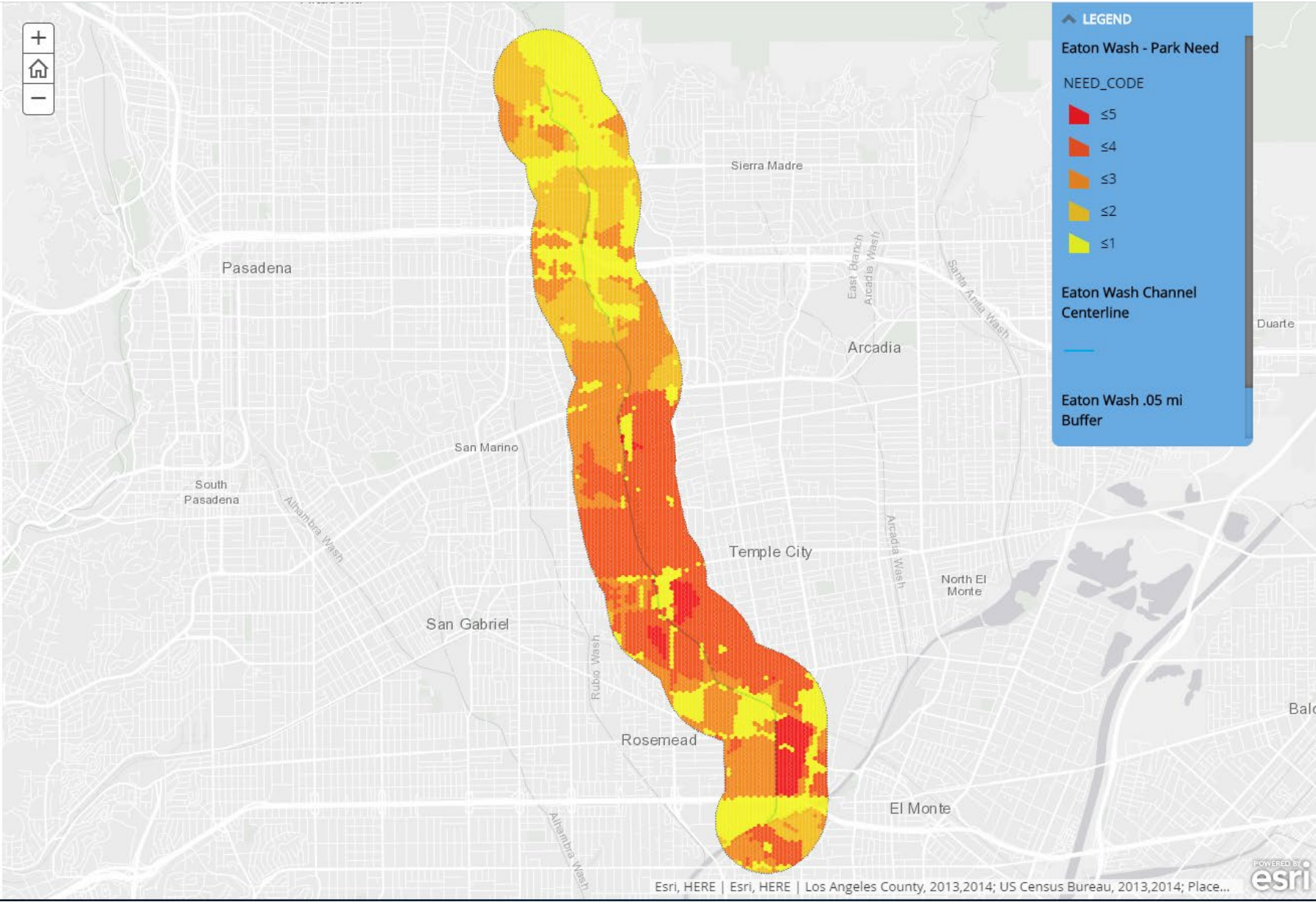
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 - **Finding:** There are **fewer** activity generators between **Muscatel Ave, and Colorado Blvd**
 - **Finding:** There are a number of small parks throughout the corridor

Circulation

Bikeway Connectivity:
Existing Bikeway Data compiled by the Metro



Eaton Wash

Circulation

Activity Generators:

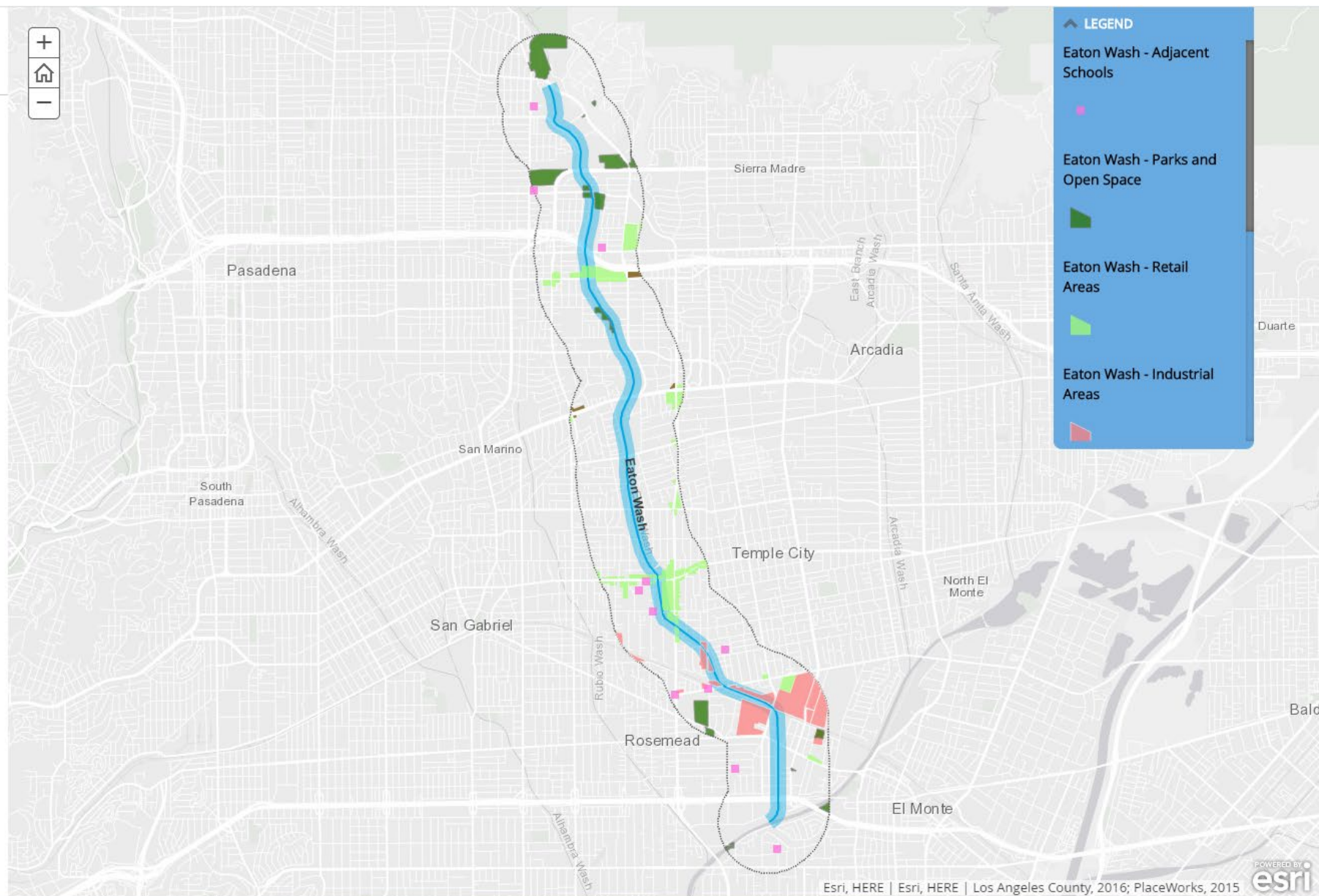
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Circulation

Bikeway Connectivity:

- Existing Bikeways Data compiled by the [Metro Active Transportation Strategic Plan](#) data
- Existing Trail data from County DPR
- **Finding:** There are **major gaps** in the area's bikeway network
- **Finding:** There is also a lack of **trails** in the area, the nearest being **Santa Anita Wash**.
- **Finding:** Pasadena is the most well connected with bikeways

Circulation



Eaton Wash

Circulation

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Circulation

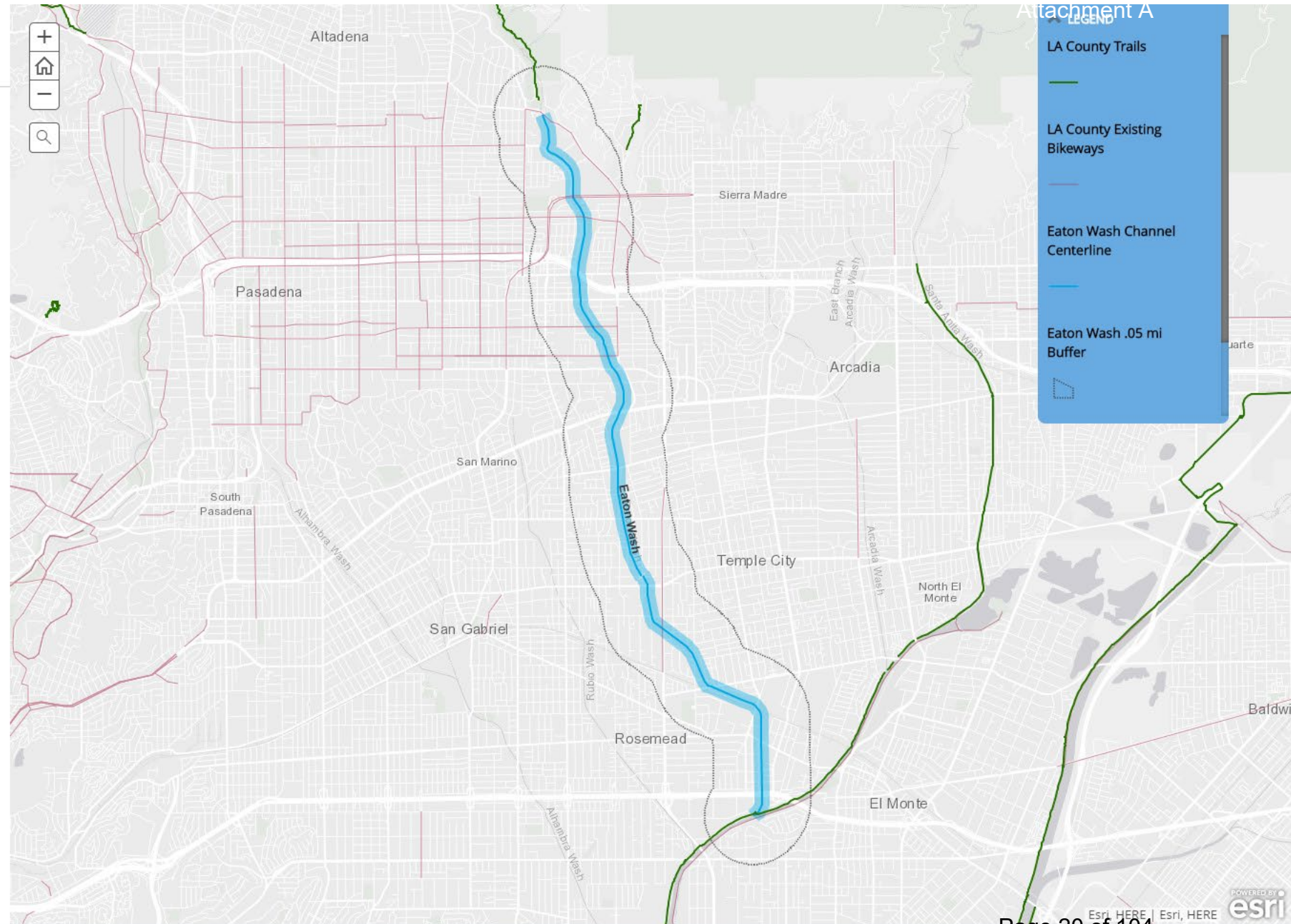
Intersections:

- Data coded from Street Center lines data and Open Street Maps
- Finding:** Eaton Wash crosses underneath a roadway **27 times**
- Finding:** Conditions at each intersection vary, click the pop-up link for **street-views**

Previously Planned Projects

Previous Planning Efforts:

- Eaton Wash area project compiled through the Existing Efforts and Studies Technical Memo
- Finding:** Eaton Wash was identified for Greenway development within multiple documents:
 - The **LA County Bicycle Master Plan 2012** identified the wash for a Greenway (minus the



Eaton Wash

Circulation

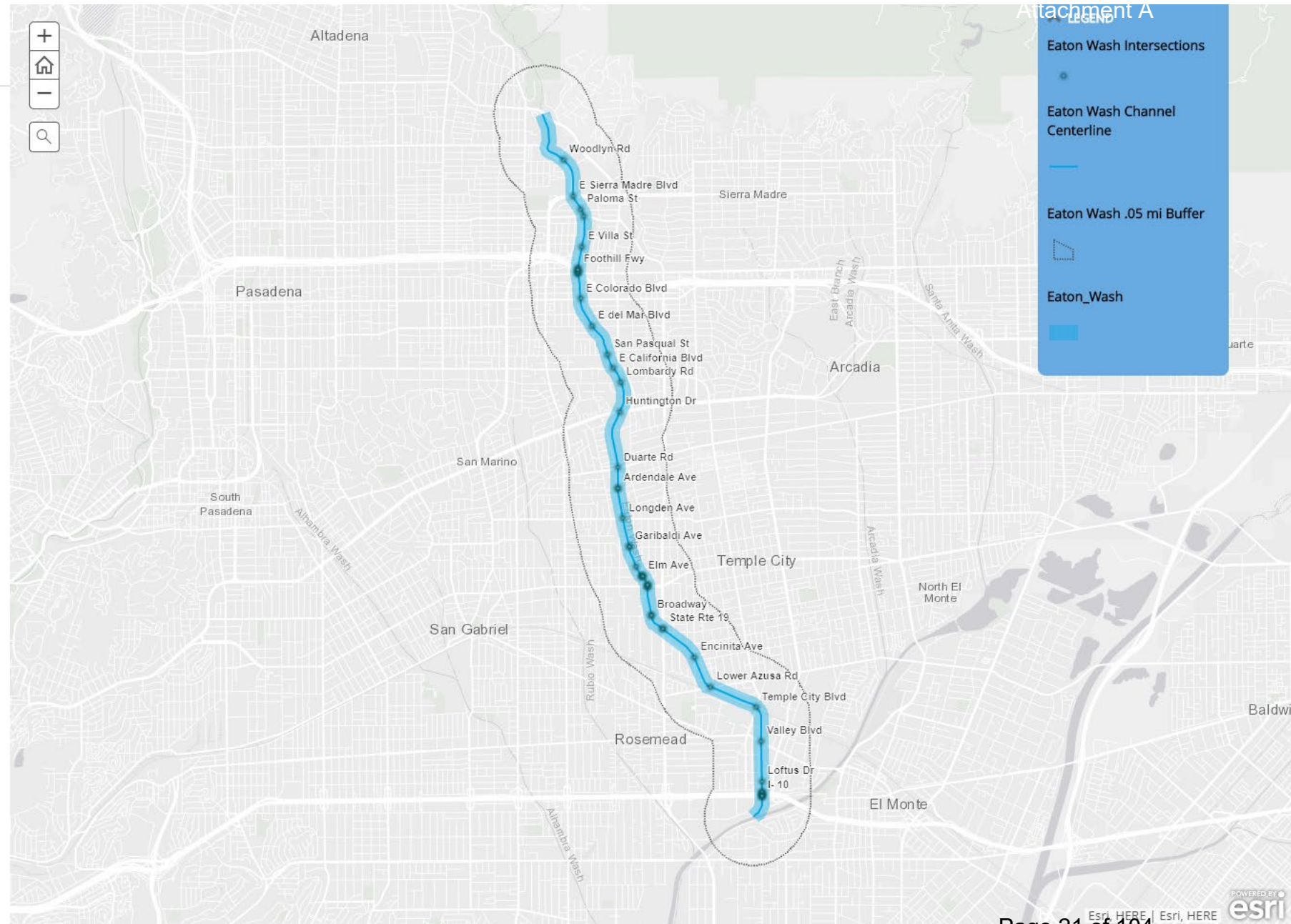
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 - The **LA County Bicycle Master Plan 2012** identified the wash for a Greenway (minus the segment between Del Mar Blvd and Foothill Blvd)
 - The **SGVCOG Greenways Study 2018** ranked Eaton Wash among its "top 50 miles"
 - A Greenway along the southern portion of Eaton Wash has been **funded between Elm Ave and the Rio Hondo, starting with Phase 1 between Rosemead Ave and Longden Ave.**
 - Additionally, "constructing a park in the vicinity of Eaton Wash" was identified by the community as a high priority project during the Parks Needs Assessment outreach



Eaton Wash

Previously Planned Projects

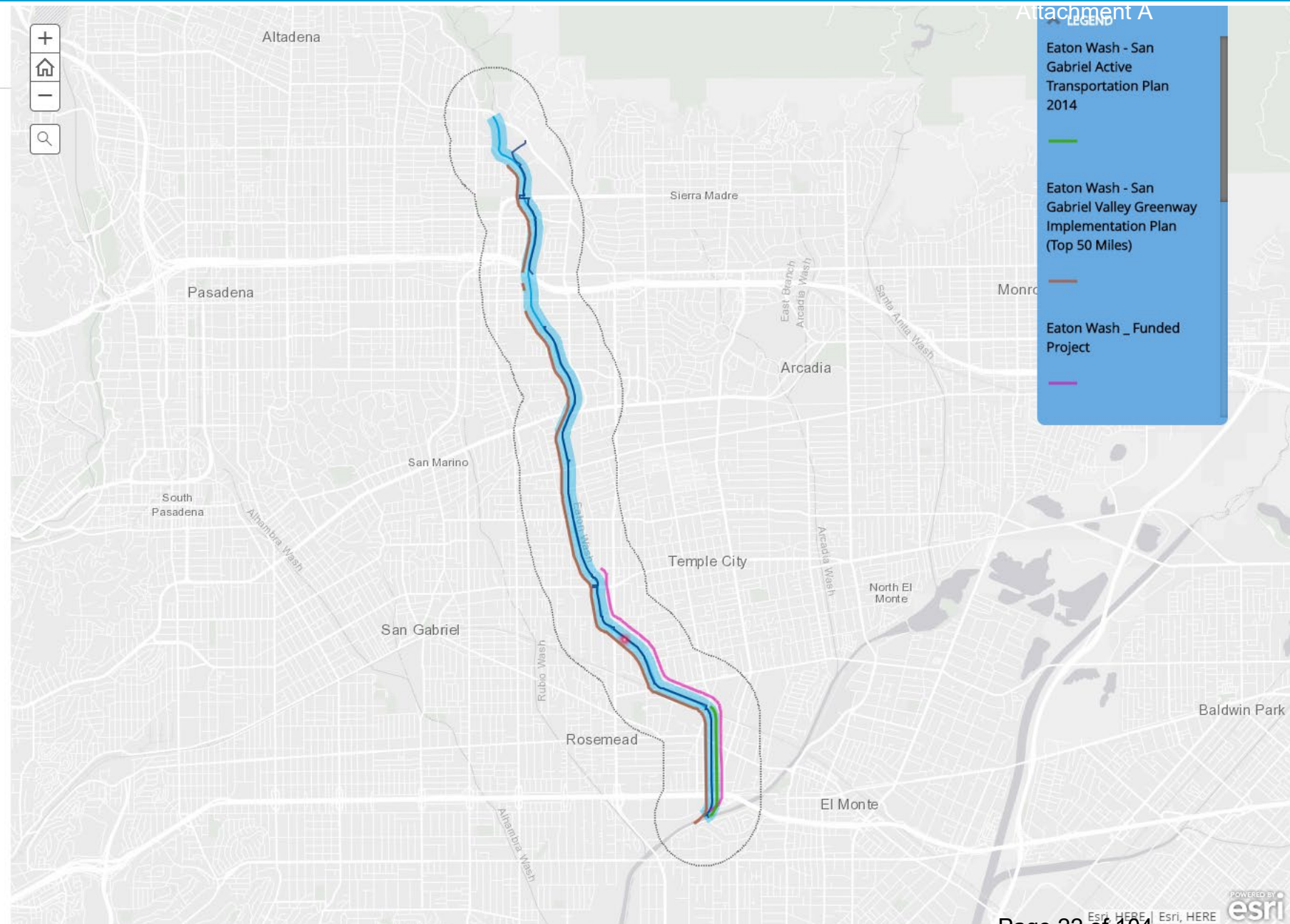
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 - Additionally, "constructing a park in the vicinity of Eaton Wash" was identified by the community as a high priority project during the Parks Needs Assessment outreach

Flood Control

Flood Capacity:

- Eaton Wash has been evaluated based on as-built data for **flood capacity**
- Finding:** Areas that warrant further analysis are mostly concentrated along the **southern** portion of the wash
 - Upon further analysis**, some areas *may* need to be widened in the future which would affect Greenway development



Eaton Wash

No issues detected ×

Story not shared ×

...mostly concentrated between Acacia St and Encinita Ave

Constraints and Opportunities

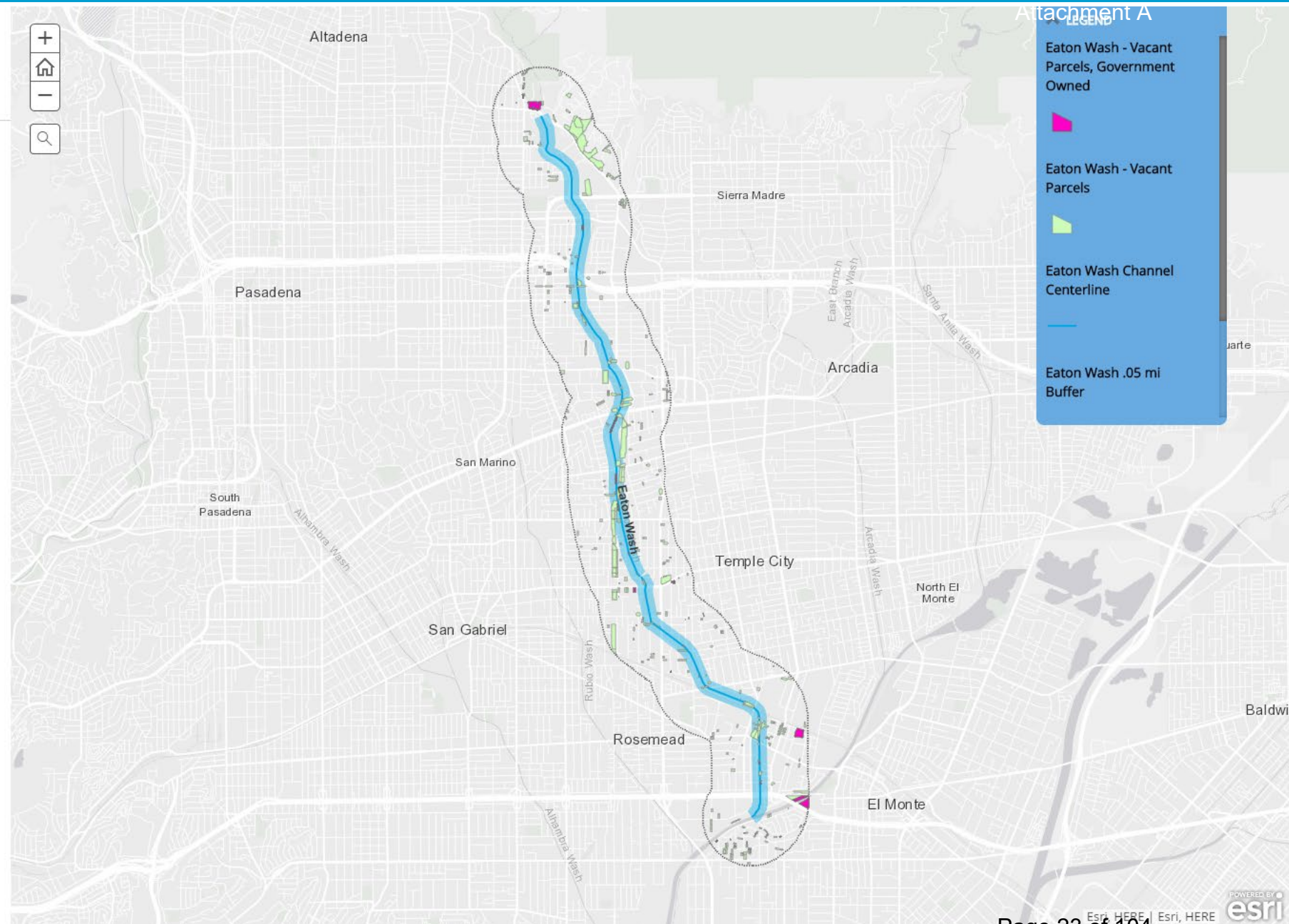
Vacant Parcels

- Vacant parcels represent potential opportunities for redevelopment
- Data referenced is from the County Assessors Office
- **Finding:** While there are many vacant areas adjacent to Eaton Wash, very few are owned by a government agency

Main Takeaways

Potential Project Opportunities:

- Eaton Wash has potential for Greenway development which has been proposed by a number of other studies
- A Greenway is funded and being developed along the south end of Eaton Wash
 - The SGVGSIP could potentially focus on the area north of what is being currently being developed, or seek to inform the planning and design of what is currently underway
 - The Greenway currently in development is in the areas of greatest 'need' as well as some areas that need further flood capacity analysis



Eaton Wash

Constraints and Opportunities

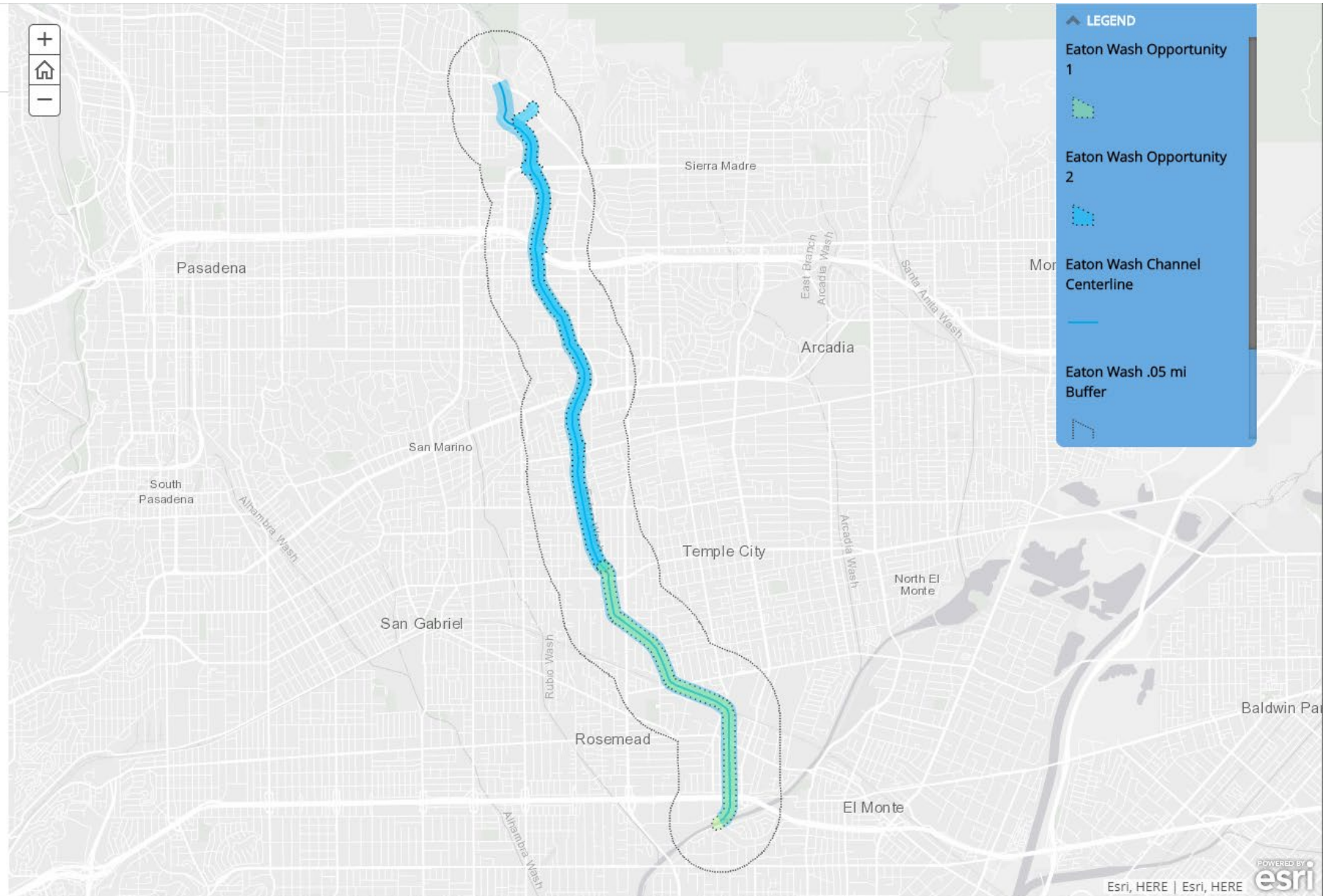
Vacant Parcels

- Vacant parcels represent potential opportunities for redevelopment
- Data referenced is from the County Assessors Office
- **Finding:** While there are many vacant areas adjacent to Eaton Wash, very few are owned by a government agency

Main Takeaways

Potential Project Opportunities:

- Eaton Wash has potential for Greenway development which has been proposed by a number of other studies
- A Greenway is funded and being developed along the south end of Eaton Wash
 - The SGVGSIP could potentially focus on the area north of what is being currently being developed, or seek to inform the planning and design of what is currently underway
 - The Greenway currently in development is in the areas of greatest 'need' as well as some areas that need further flood capacity analysis



Plan Development

FCD Greenway Design Guidelines and Standards

- Multi-use trails features
- Operations
- Maintenance

Conceptual Site Designs

- Key Locations

Project Schedule

| | |
|--|-------------------------------|
| Review of Existing Studies and Planned Projects | Completed |
| Study of Existing Conditions | February 2021 |
| Database & GIS Mapping | February 2021 |
| Public Engagement & Community Meetings | Early 2021 |
| Greenway Network Plan | Fall 2021 |
| Environmental Documentation | Summer 2022 |
| Steering Committee and Technical Advisors Meetings | Ongoing until Plan completion |

Next Steps

- Analyze tributaries to prioritize potential greenway reaches
- Community Engagement
- Additional discussions with Cities

REPORT

DATE: November 10, 2020

TO: Water Policy Committee/TAC

FROM: Marisa Creter, Executive Director

RE: **MWD REGIONAL RECYCLED WATER PROGRAM**

RECOMMENDED ACTION

For information only.

BACKGROUND

The Metropolitan Water District of Southern California (MWD) is the largest wholesaler of water in the United States and serves over 19 million residents across 6 counties. MWD imports water from Northern Sierra and the Colorado River and distributes the water through 830 miles of large diameter pipelines and tunnels. The District strives to provide its service areas with adequate and reliable supplies of high-quality water to meet present and future needs in environmentally and economically responsible manners.

MWD is currently partnering with the Sanitation Districts of Los Angeles County to develop a Regional Recycled Water Program. This program will purify wastewater to produce high-quality water that could be used again. Once completed, this program can become one of the largest advanced water treatment plants in the world.

The process begins with wastewater discharged from homes, businesses, and industry facilities. After being cleaned and treated, the wastewater flows to an advanced water treatment plant where it is further purified. The water then subsequently replenishes groundwater basins and is eventually pumped up, disinfected, and used again. The water could also be delivered to industrial facilities and potentially to MWD's water treatment plants and delivery systems.


MWD believes that the Regional Recycled Water Program can support Southern California to produce a drought-proof source of water, meet the needs of the region's growing economy and population at a cost comparable to other local water resources, recycles the region's untapped source of wastewater, and prepare the region for the event of catastrophic earthquakes by increasing local water supplies. Based on current estimates, this program will cost a total of \$3.4 billion and create approximately 42,000 jobs.

The MWD Board of Directors is scheduled to approve the program's environmental phase services and amend the agreement with the Sanitation Districts of Los Angeles County to launch this program. Once approved, the project's environmental planning phase will begin in 2021 and the design and construction phase will begin in 2023. It is expected that this program will be fully operational as early as 2032.

Ms. Rupam Soni, MWD Principal Public Affairs Representative, will present on the next steps in

REPORT

this groundbreaking project and its potential benefits to Southern California water reliability. The presentation is included as Attachment A.

Prepared by: 
Alexander P. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Presentation



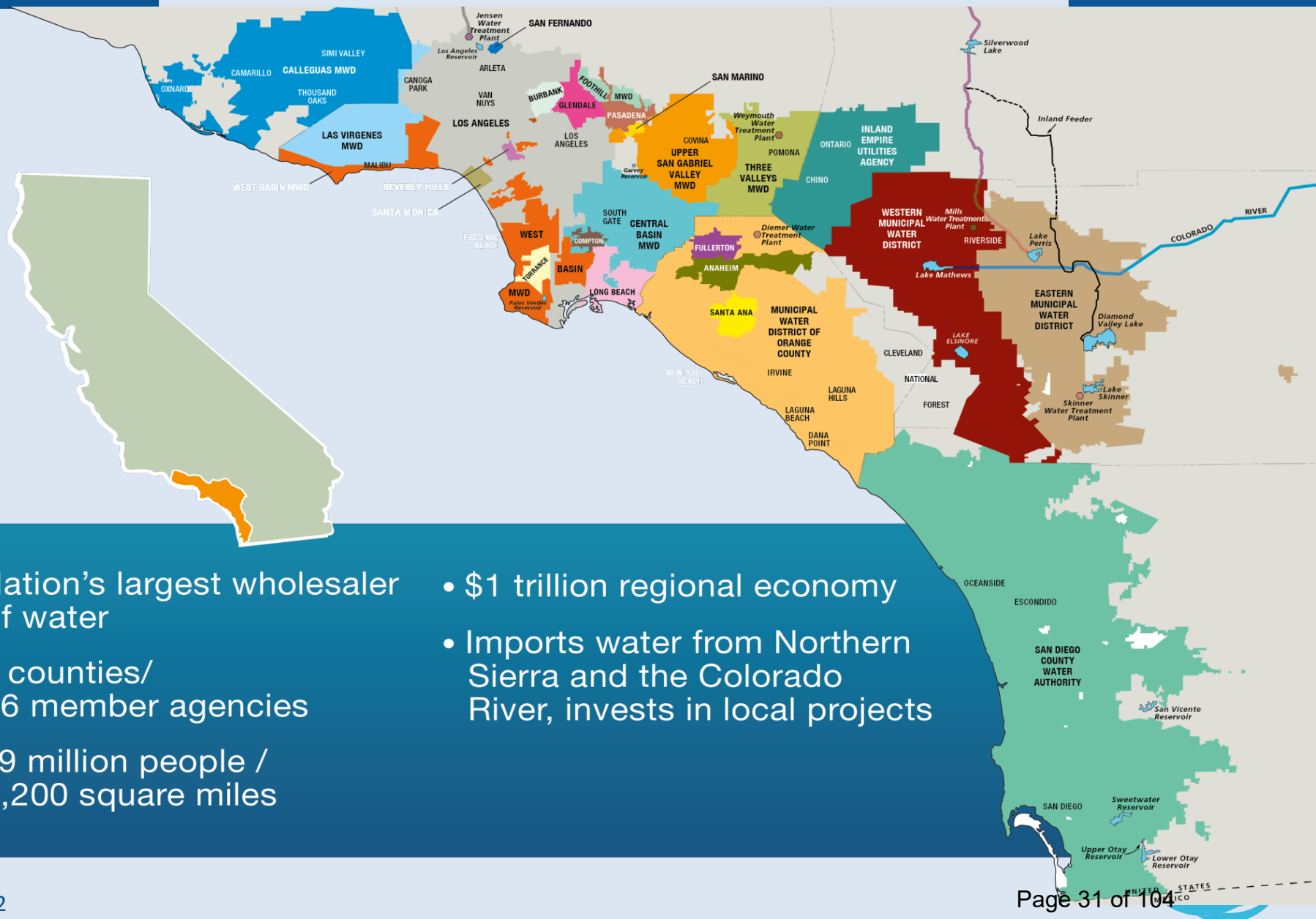
UPDATE: Regional Recycled Water Program

A NEW source of water for Southern California

Rupam Soni, Metropolitan Water District
SGVCOG Water Committee
November 10, 2020

METROPOLITAN OVERVIEW

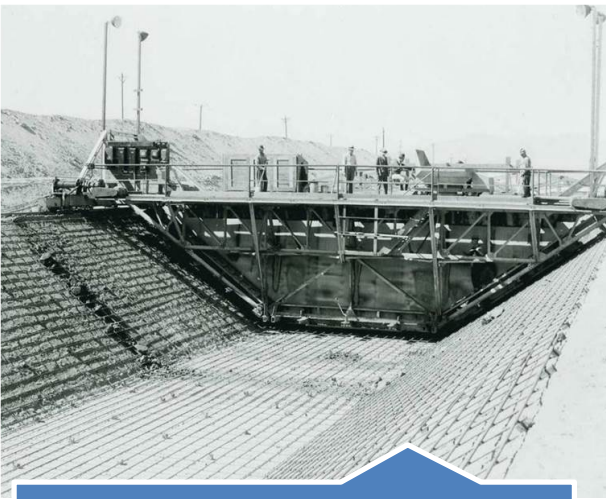
Attachment A



- Nation's largest wholesaler of water
- 6 counties/ 26 member agencies
- 19 million people / 5,200 square miles
- \$1 trillion regional economy
- Imports water from Northern Sierra and the Colorado River, invests in local projects

METROPOLITAN TIMELINE

Leaders in Developing Water Supplies



1930s:
Colorado River
Aqueduct



1970s:
State Water
Project



Today:
Local Supplies &
Conservation



DEVELOPING LOCAL WATER SUPPLIES

Investing \$1.46 billion for local resources and conservation



Groundwater Recovery
991,000 acre-feet
recovered



Recycling
2,895,000 acre-feet produced



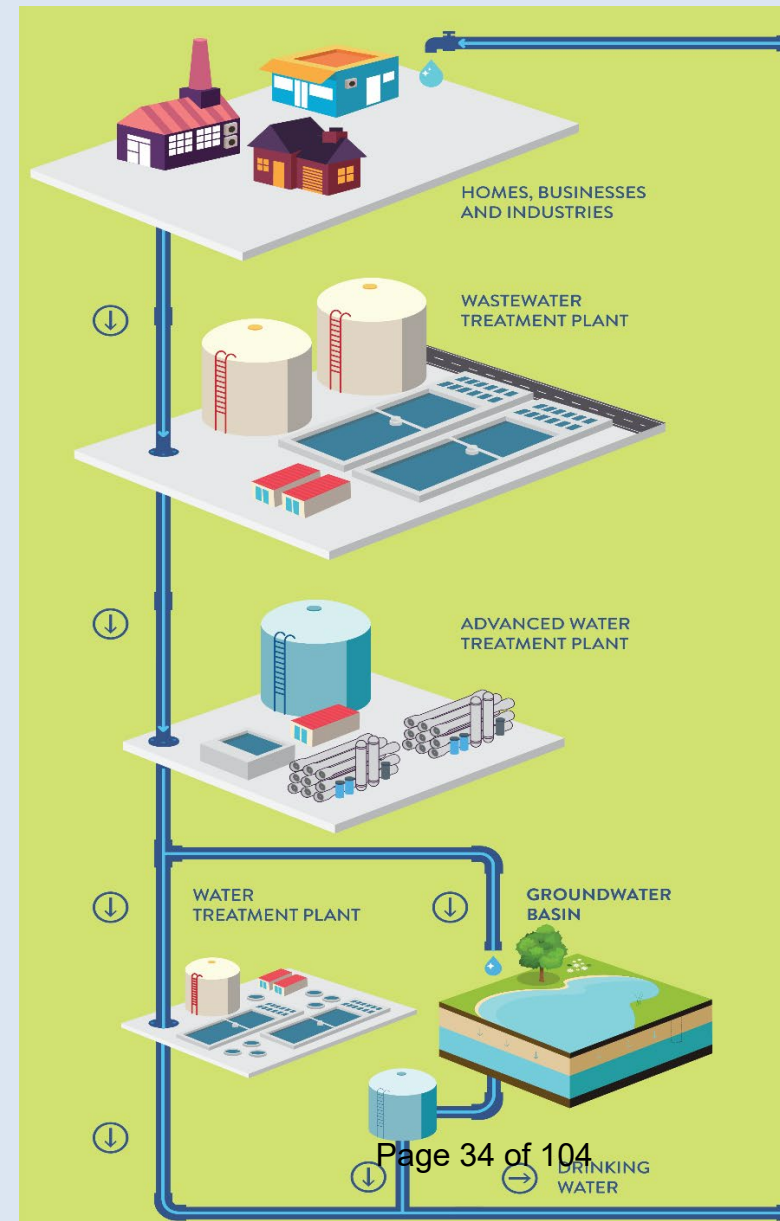
Conservation
3,055,000 acre-feet saved

Highlights available in SB 60 Report



REGIONAL RECYCLED WATER PROGRAM

- Development of a new regional water source
 - Replenish groundwater basins
 - Provide water to industries
 - Connect to Metropolitan's water treatment plants



REGIONAL RECYCLED WATER PROGRAM

In numbers



Up to 150 million
gallons per day or
168,000 acre-feet
per year



Enough water
for over 500,000
homes



One of the
largest programs
of its kind in
world



PROGRAM BENEFITS



Earthquake

Prepares the Southland for the event of a catastrophic earthquake by increasing local water supplies.



Drought

Produces a drought-proof source of water, readily available rain or shine.



Groundwater

Replenishes groundwater basins, which provide 30% of Southern CA's water supply and have seen levels drop to historic lows in recent years.



Economy

Helps meet needs of region's growing economy and population at a cost comparable to other local water resources.



Wastewater

Uses region's largest untapped source of wastewater, currently sent to the ocean.



PROGRAM PARTNER



LOS ANGELES COUNTY SANITATION DISTRICTS

Converting Waste Into Resources

A partnership that began with initial technical studies in 2009 and continues to progress.



JOINT WATER POLLUTION CONTROL PLANT

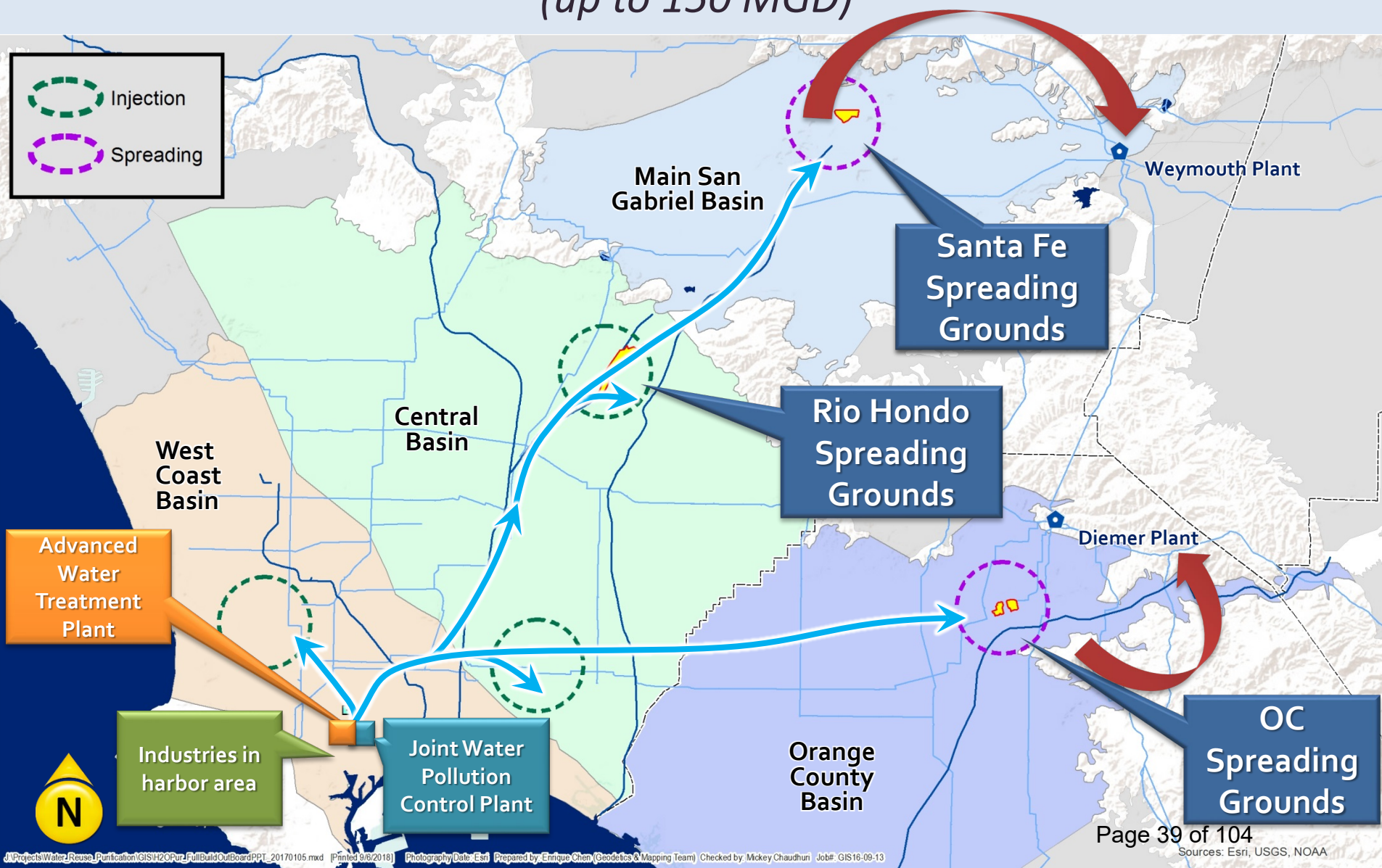
Attachment A

- Average flow of ~260 MGD
- Permitted capacity of 400 MGD
- Currently discharges to the ocean



POTENTIAL FULL PROGRAM

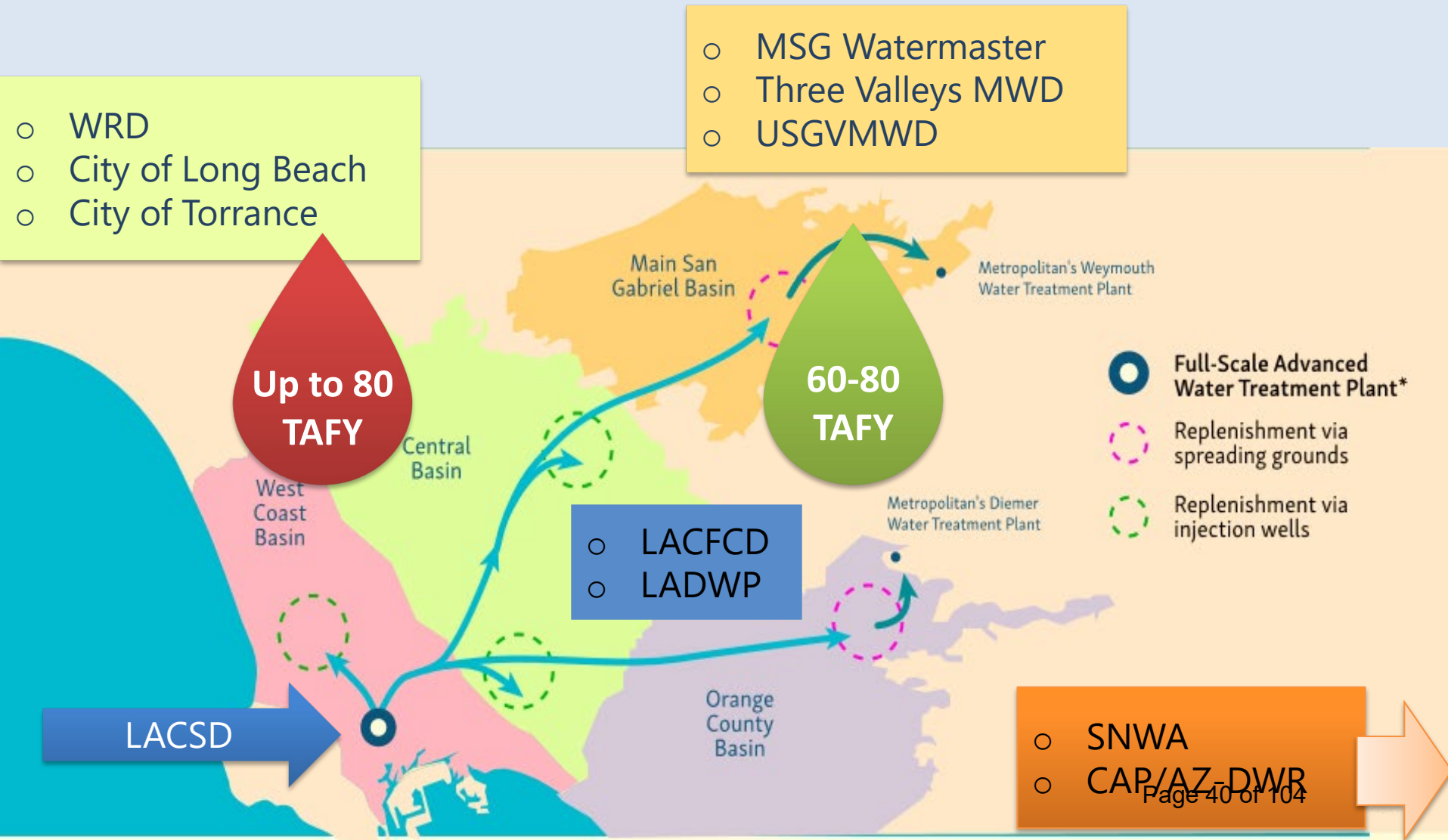
(up to 150 MGD)



PROGRAM COLLABORATION

Attachment A

LOIs and MOUs developed



ABOUT THE ADVANCED PURIFICATION CENTER

Attachment A

- Tests an innovative purification process
- Obtain regulatory approval of process
- Provides costs and data for full-scale facility
- Gain public support



MAJOR POLICY DECISION

Attachment A

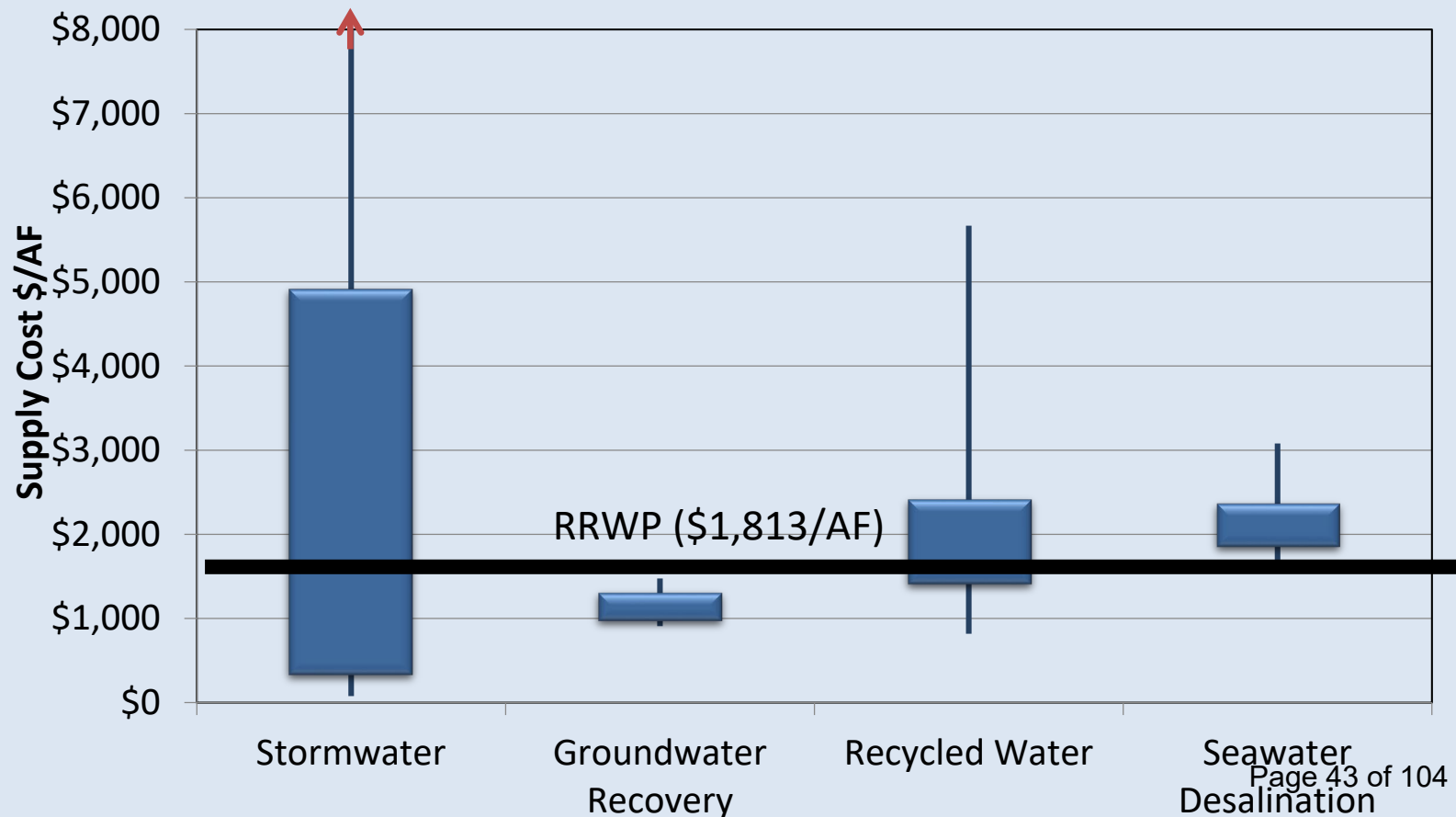
NOVEMBER 2020

- First in-region water supply developed by Metropolitan
- Advance science and technology for potable reuse
- Participation by out-of-region interests
 - Southern Nevada Water Authority
 - Central Arizona Project
- MWD/LACSD shared roles and responsibilities



PROGRAM COSTS

- Total capital cost of \$3.4 billion
- Annual O&M cost of \$129 million
- Unit cost of approximately \$1,800/AF
- Approximately 42,000 jobs created



PROGRAM SCHEDULE



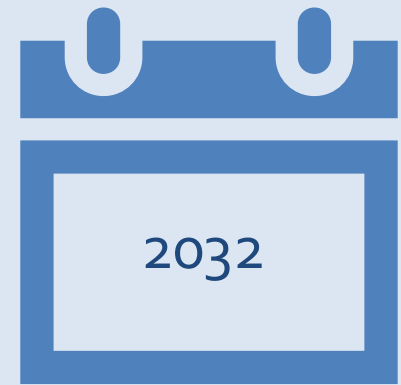
Board
Action on
Next Steps



Environmental
Planning



Design and
Construction



Start-up and
Operations



OPPORTUNITIES TO WORK TOGETHER



Regional Recycled Water Program

- Board Action
- Virtual Tours
- Environmental Planning



Conservation

- Water Saving Incentive Program
- Innovative Conservation Program
- Rebates



Stormwater Pilot Program

- Recharge Pilot Program
- Direct Use Pilot Program



Other Local Resources

- Local Resources Program
- On-site Retrofit Program



WRAP-UP AND QUESTIONS

METROPOLITAN RECYCLED WATER WEBSITE



INTRODUCTION HOW IT WORKS PROCESS BENEFITS STRATEGY MILESTONES RESOURCES PARTNERSHIP



Regional Recycled Water
Advanced Purification Center

A NEW SOURCE OF WATER FOR SOUTHERN CALIFORNIA

Water is too precious to use just once. So the Metropolitan Water District of Southern California is making a major investment in a potential water recycling project that will reuse water currently sent to the ocean.

www.mwdh2o.com/RRWP

bewaterwise.com



Thank you for joining us today!

Rupam Soni

rsoni@mwdh2o.com

mwdh2o.com/rrwp



@mwdh2o



DATE: November 10, 2020

TO: Water Policy Committee/TAC

FROM: Marisa Creter, Executive Director

RE: **TENTATIVE 2020 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT**

RECOMMENDED ACTION

Provide direction on comments for submittal to the Los Angeles Regional Water Quality Control Board on the MS4 Permit.

BACKGROUND

In December 2019, the Los Angeles Regional Water Quality Control Board (Regional Board) released the “Working Proposal” of the Regional Phase 1 Municipal Separate Storm Sewer System (MS4) Permit. The SGVCOG Water Policy Committee and Water Technical Advisory Committee (TAC) reviewed that Working Proposal and, in February 2020, submitted a comment letter to the Regional Board (Attachment A).

On August 24, 2020, the Regional Board released the draft Tentative MS4 Permit (Tentative Permit) for a 60-day public comment period. That public comment period was subsequently extended for another 45 days, to end on December 7, 2020. The Draft or Tentative MS4 Permit and all attachments can be found at this link: www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/index.html.

As discussed at the July 2020 Water Policy Committee/TAC meeting, the SGVCOG has engaged a consultant to provide technical and negotiation support for the MS4 Permit. The SGVCOG’s consultant team, which was selected through a competitive procurement, is led by Craftwater Engineering, with support from Tetra Tech, and John L Hunter and Associates (JLHA).

At the October 2020 Water Policy Committee/TAC meeting, the consultant team reviewed and received feedback on the SGVCOG’s previously-submitted comments on the Working Proposal, detailed comments and recommendations on the Tentative Permit, additional areas of concern around the State Water Resources Control Board Order on Watershed Management Programs (WMPs), and recommendations on how to better integrate the Safe Clean Water Program into the Permit.

Also at the October 2020 meeting, the Water Policy Committee recommended that the Governing Board direct staff to submit a letter to the Regional Board requesting that adoption of the MS4 Permit be delayed until July 2021 and work to address compliance deadlines that would be impacted by this extension. On October 15, 2020, the Governing Board voted to direct staff to submit this letter to the Regional Board (Attachment B).

DISCUSSION


REPORT

With direction from the Committees, Craftwater Engineering and their team prepared a comment letter on the Tentative MS4 Permit. This letter was distributed to the Water Technical Advisory Committee (TAC) on October 26, 2020. Comments were requested and incorporated into the letter (Attachment C). This letter is to be discussed at the November 10, 2020 meeting and the Committees will provide direction on comments for submittal to the Regional Board.

The SGVCOG also received additional legal comments from the Water TAC that were not incorporated into the letter. Those are as follows:

- It is Unlawful for the Same Attorney to be Advising both the Regional Board Staff and the Board Itself at this Adjudicative Hearing.
- The Tentative Permit's Imposition of the NEL-Related Provisions Is Not Required by Federal Law.
- The NEL-Related Provisions Cannot Be Adopted In Accordance with the Requirements of California Water Code §§ 13000, 13263 and 13241.
 - The Tentative Permit's Findings are Legally Insufficient.
 - The Tentative Permit's "Findings" Lack any Substantive Analysis, and are Therefore Deficient.
 - The Facts Do Not Support Adopting the Tentative Permit and its NEL-Related Provisions.
- The Joint Responsibility Provisions of the Tentative Permit Violate Due Process.
- Monitoring & Reporting Issues:
 - Lack of Sufficient Findings (related to Monitoring and reporting)

In addition to preparing the comment letter, the consultant team presented at the October 14, 2020 LA Permit Group meeting to build consensus with other regional Permittees. Other Permittees in the County expressed similar comments as the SGVCOG's and plan to submit our comment letter, either in part or in full, to the Regional Board. SGVCOG staff is coordinating to determine which entities are submitting similar comment letters.

Prepared by: 
Samantha Matthews
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SGVCOG Comment Letter on MS4 Working Proposal
Attachment B – SGVCOG MS4 Permit Adoption Extension Letter
Attachment C – SGVCOG Comment Letter on Tentative MS4 Permit - Final
Attachment D – SGVCOG Comment Letter on Tentative MS4 Permit - Tracked Changes



February 24, 2020

Renee Purdy, Executive Director
Los Angeles Regional Water Quality Control Board
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Los Angeles, CA 90013

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Pomona
Rosemead
San Dimas
San Gabriel
San Marino
Sierra Madre
South El Monte
South Pasadena
Temple City
Walnut
West Covina

First District, LA County
Unincorporated Communities

Fourth District, LA County
Unincorporated Communities

Fifth District, LA County
Unincorporated Communities

SGV Water Districts

RE: COMMENTS ON THE WORKING PROPOSAL OF THE REGIONAL PHASE 1 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (ORDER R4-2020-XXXX)

Dear Ms. Renee Purdy and Regional Board Staff:

This submittal is being made on behalf of the San Gabriel Valley Council of Governments (“SGVCOG”) and its member cities. The SGVCOG is submitting these comments in response to Regional Board staff’s request for written comments on the “Staff Working Proposal” version of the Regional Phase 1 Municipal Separate Storm Sewer System (MS4) Permit (“Working Proposal”), which was circulated to the community via FTP link on December 10, 2019.

As fellow public agencies, the SGVCOG’s member agencies appreciate the opportunity to comment on the Working Proposal and hope to continue to work collaboratively with the Regional Board and its staff to create a Final Permit that includes terms that are technically and financially feasible, while also achieving concrete environmental benefits to our communities. Furthermore, the Board’s public workshop on January 7, 2020 at the Junipero Serra Building in Downtown Los Angeles was a step in the right direction towards providing stakeholders with an opportunity to provide the Board and its staff with public input. Unfortunately, some of the member cities were not given an opportunity to provide input, as they felt their voices were drowned out by outside consultants, legal teams and specific interest groups. Therefore, the SGVCOG would encourage the Regional Board, and its staff, to provide additional opportunities to provide stakeholders with public input, and would offer to host an additional workshop in the San Gabriel Valley that would allow our member cities with opportunities to provide additional input as well as comments specific to the San Gabriel Valley region.

The SGVCOG’s member agencies conducted a thorough and comprehensive review of the Working Proposal. Those specific comments, concerns, and comparisons with the current 2012 Permit are included as Attachment A. However, we would also like to highlight the following areas of concern:

- **Trash TMDL:** The SGVCOG has significant concerns with the Trash Total Maximum Daily Load (TMDL) of zero included in the Working Proposal (p. 20; p. 56). Despite alternative compliance options, this TMDL is not at all a reasonable goal. There is no precedent for a Trash TMDL of zero, and since the Permit allows for the installation of full capture systems for compliance with the Trash TMDL, the numeric limit of zero is inappropriate. In general, TMDL compliance schedules of five years may not yield

enough time for permittees to comply. Allowing permittees the flexibility to utilize an approved EWMP or WMP to address compliance schedules and align infrastructure projects with funding opportunities (e.g. Safe, Clean Water Program) would be more effective in ensuring that scheduled compliance dates can be reasonably achieved.

- Reporting and Monitoring:*** The Working Proposal's reporting requirements are expanded and will take significant time and resources to complete. These are resources that would be better used for implementing other elements of the Permit. For example, the annual report forms require significant additional financial reporting but do not provide adequate guidance on what the Regional Board is looking for regarding financial reporting. Additional clarity is needed on the Regional Board's expectations. Moreover, including the reporting forms in the Permit does not allow for the flexibility to modify the forms as may be necessary or desired in the future. To allow for the opportunity to adjust reporting to better meet the needs of all stakeholders, the SGVCOG recommends that the forms be removed from the Permit. Instead, the Draft Permit should allow for the Regional Board to amend and adopt the annual report forms on a regular (e.g., bi-annual) basis.

The additional requirement for permittees participating in a Coordinated Integrated Monitoring Program (CIMP) to submit a Monitoring Report twice a year doubles the annual reporting effort. This additional reporting would result in additional reporting costs for permittees – costs that permittees would be more effectively spent on implementation. Furthermore, we note permittees within the SGVCOG will be required to provide financial reporting to Los Angeles County regarding their use of Safe, Clean Water funds. We encourage Regional Board staff to closely coordinate with Los Angeles County in the development of financial forms to avoid redundant reporting.

In addition, the Working Proposal's requirements that analysis be conducted in picograms is unrealistic. Many laboratories in the region are not equipped to perform the recommended analysis at this level, so retaining this metric will result in significant additional cost – and an inefficient use of permittees' limited funds.

Overall, the SGVCOG and its member cities have significant concerns with the substantial increase in reporting responsibilities and the financial burden associated with the more stringent requirements.

- Compliance Schedule:*** The Working Proposal includes compliance schedules that are not reasonable. For example, the Working Permit requires that an approved WMP submit a notice of intent (NOI) by the effective date of the Order. This requirement does not afford permittees time to develop the documentation necessary to comply with this provision. The SGVCOG requests that a minimum of 120 days be granted for the preparation and submittal of the NOI. In addition, the Working Permit specifies that permittees must comply with water-quality based effluent limitations immediately (p. 45). Previously in the 2012 Permit, permittees had 90 days to meet compliance deadlines. SGVCOG has concerns that the requirement for immediate compliance

ignores the Court's findings with regards to the Cities of Duarte's and Gardena's lawsuits. Regardless, as the Regional Board develops the Draft Permit, a program that is determined to be "inadequate" by the Regional Board should be allowed a grace period to correct inadequacies. This would still allow for the Regional Board to address gross non-compliance while providing a path for Programs with very minor and easily correctable flaws to continue addressing water quality goals.

In addition, the Permit requires compliance for Bacteria TMDLs within five years, which is not a reasonable timeframe. The process of planning, designing, constructing, testing and operating projects to implement best management practices (BMPs) takes longer than five years. In addition, the Los Angeles County Safe Clean Water (SCW) Program funding schedule could exceed this timeframe. Instead, if compliance within five years is not feasible for a permittee, then the permittee should instead be able to demonstrate a plan towards compliance that it will implement as funding becomes available.

- ***Industrial General Permit (IGP) Training and Inspections:*** The Working Proposal requires permittees' staff to complete IGP training and implies that cities will be required to take a greater role in IGP inspections, placing an additional financial burden on permittee staff or consultants related to the IGP program, which was previously not a responsibility of the permittees. If these responsibilities are to be delegated to the Permittees, then it is inappropriate for permittees to be further financially burdened by IGP training. The SGVCOG recommends that training be funded and administered on a regional basis, by the Regional Board, not individual member agencies. The State Board is collecting funds from cities to manage the IGP program, so the cities should not have additional expenses related to this work. If the Regional Board requires additional funding for these training program, additional funding should be requested from the State Legislature. In fact, the SGVCOG could include this in its legislative platform. Moreover, it is not clear whether permittees would be exempt from this training if the inspection work is outsourced to contractors, a point which requires clarification. The SGVCOG believes that the IGP training should only be required for those individuals who actually perform the inspections.
- ***Fiscal Resources:*** The Working Proposal requires that each permittee enumerate the sources of funds used in the past year and proposed in the future year in order to comply with the Permit (p. 56). The level of financial reporting required in the Working Proposal – which requires individual reporting of capital expenditures, land costs, personnel costs, consultant costs, construction costs, and operations and maintenance costs – is much greater than had previously been required and represents a significant resource burden to produce. The Permit should provide greater clarity on this requirement, as there will likely be circumstances where the cost estimates to fully implement the Permit are greater than the funding available. In addition, it should be noted that the primary dedicated source of funding that most cities currently have for MS4 Permit compliance is through their upcoming Local Return through the SCW Program, and our member cities and agencies do not anticipate any available funding beyond the SCW Program funds. And the regional allocations to each watershed will

be awarded competitively. The SGVCOG is concerned that the regional allocations coupled with the Local Return will still not provide enough funding to complete all projects within the Permit, especially within the current designated timeframes.

- ***Toxicity:*** The Working Proposal includes a new discharge requirement around aquatic toxicity, which is a new Permit requirement and will require time to fully review the technical elements of this new requirement. While the costs of monitoring these four freshwater species will be extremely high, without additional analysis, permittees will not be able to estimate the actual compliance costs. Since permittees cannot evaluate the costs of compliance, the Regional Board cannot evaluate the financial impacts of this new requirement.
- ***Permit Contradictions:*** The Board should clarify with a statement (in the appropriate section of the Permit) as to why permittees in Reach 2 and Reach 3 of the Rio Hondo river are included for the LAR Metals TMDL. Permittees are listed within the approved TMDL and current MS4 permit; however, Reaches 2 and 3 are not included in the 303d lists. The SGVCOG is requesting an explanation and justification for this apparent contradiction.
- ***Safe Clean Water Measure Integration:*** The SGVCOG commends the Regional Board on its acknowledgement of the funding impact of LA County's Safe Clean Water Measure. The SGVCOG recommends that the Safe Clean Water Program be further integrated into the Permit. This includes better aligning compliance schedules with the SCW Program's Stormwater Investment Plans and, to the extent possible, mimicking the SCW Program reports with the Permit's reporting requirements. By aligning the reporting requirements of the permit and the Safe Clean Water Program, permittees will be able to be more efficient in reporting on their compliance schedule and BMPs.

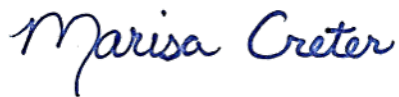
In addition to the more technical comments above, from a procedural perspective, the SGVCOG is concerned that Regional Board staff is attempting to "fast-track" this Permit to completion regardless of the concerns raised by the permittees in an attempt to mitigate the trial court's invalidation of the NEL-terms of the 2012 Permit. Instead, the SGVCOG recommends that adoption of a new "Regional Permit" should be pursued carefully and deliberately, and with the goal of getting support from all stakeholders, so that the permit includes terms that comply with State law, while also being technically and financially feasible.

The SGVCOG and its member cities are willing to work with all stakeholders to adopt a permit that does not suffer from the same infirmities as the 2012 MS4 Permit as documented and found by the trial court in its decision in *City of Duarte v. State Water Resources Control Board, et al.* (Case No. 30-2016-00833722) and the related Gardena Case. The SGVCOG looks forward to continuing to work with the Regional Board, Regional Board staff and all stakeholders to formulate and adopt a permit that is reasonably meaningful, measurable and achievable, with reasonable timelines for compliance. In order to accomplish this goal, however, the Regional Board must consider the dischargers' costs of complying with the proposed terms, and whether or not those terms are reasonably achievable. (CWC § 13241(c) & (d); CCP § 1094.5(b).) Ultimately, if the Regional Board determines that some permit terms are achievable while others are not, it should only impose those terms that are, in fact, reasonably achievable. Accordingly, prior to approving

a new permit, the SGVCOG asks that the Regional Board develop and reasonably consider the information mandated by CWC § 13241 and make the appropriate findings showing how the imposition of the new permit's proposed NEL-related terms can be reconciled with CWC §13241.

The SGVCOG sincerely appreciates the Regional Board's patience in allowing us to provide these comments and willingness to work together adaptatively. We look forward to continuing to work with your Staff to ensure that a Permit is adopted that meets the needs of all stakeholders. Please feel to contact Caitlin Sims on my staff at (626) 457-1800 if you have any additional questions.

Best,



Marisa Creter
Executive Director



November 5, 2020

Chair Irma Munoz
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

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Temple City
Walnut
West Covina
First District, LA County
Unincorporated Communities
Fourth District, LA County
Unincorporated Communities
Fifth District, LA County
Unincorporated Communities
SGV Water Districts

Dear Chair Munoz:

On behalf of the San Gabriel Valley Council of Governments (SGVCOG), we ask that the Los Angeles Regional Water Quality Control Board (Regional Board) ensure that, in the issuance of the new National Pollutant Discharge Elimination System (NPDES) Regional Municipal Separate Storm Sewer System (MS4) Permit for Los Angeles and Ventura counties, the Regional Board should take all necessary actions to ensure that Permittees are required to complete the upcoming revised reasonable assurance analysis (RAA) only once. To ensure this, Permittees must be allowed sufficient time to address the final, applicable RAA-specific regulatory requirements contained in the successor MS4 Permit issued by the Regional Board.

Under the current Permit and the new Tentative Draft Permit, Permittees are required to submit an updated RAA by June 30, 2021. This is a costly and time-consuming endeavor that many Permittees have already initiated. The State Water Resources Control Board (SWRCB) has issued a proposed order (Review of Approval of Nine Water Management Programs and One Enhanced Watershed Management Program Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175). The SWRCB's proposed order includes changes that would alter the scope and methodology needed to complete the revised RAA, which increases the necessary analyses and cost for completing that effort.

The Regional Board should ensure that, in the adoption of a successor MS4 Permit, cities are only required to complete the revised RAA once, and are given sufficient time from successor Permit adoption to fully incorporate the necessary additions mandated by the finalized State Board Order and ultimately incorporated in the successor MS4 Permit. It is anticipated that the State Board will issue a draft order on November 17, for which the Regional Board will need sufficient time to incorporate in a revised draft permit. The SGVCOG is recommending the successor MS4 Permit provide a minimum of 6 months from the date of the successor MS4 Permit's adoption for Permittees to incorporate the required updates through the RAA revisions. Depending on the date of the successor MS4 Permit adoption, this will likely require extending the current RAA deadline well beyond June 30, 2021.

This RAA analysis extension request is made to prevent any doubling of efforts and to ensure the appropriate analyses in the revised RAAs are technically sound and in compliance with the anticipated revised regulatory requirements. Permittees are facing substantial financial impacts and budget shortfalls due to COVID 19 and don't have the funds to duplicate the costly, technical RAA analysis first under the terms of the 2012 MS4 Permit and again under its successor. The SGVCOG earnestly asks that the Regional Board assist its members in ensuring that the limited funds for MS4 permit compliance are used efficiently, and in a manner that best furthers Permit compliance.

Sincerely,

Marisa Creter
Executive Director

San Gabriel Valley Council of Governments
1000 South Fremont Avenue, Unit #42 ♦ Alhambra, California 91803



November XX, 2020

Renee Purdy, Executive Director
Los Angeles Regional Water Quality Control Board
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La Puente
La Verne
Monrovia
Montebello
Monterey Park
Pomona
Rosemead
San Dimas
San Gabriel
San Marino
Sierra Madre
South El Monte
South Pasadena
Temple City
Walnut
West Covina

First District, LA County
Unincorporated Communities

Fourth District, LA County
Unincorporated Communities

Fifth District, LA County
Unincorporated Communities

SGV Water Districts

RE: COMMENTS ON THE TENTATIVE ORDER OF THE REGIONAL PHASE 1 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (ORDER R4-2020-XXXX)

Dear Ms. Renee Purdy and Regional Board Staff:

On December 10, 2019, the Executive Officer of the Los Angeles Regional Water Quality Control Board (LARWQCB) released a staff working proposal for the draft Regional Phase 1 MS4 NPDES Permit (*Staff Working Proposal of the Regional Phase 1 MS4 NPDES Permit Order No. <R4-2020-XXXX>, NPDES Permit No. <CASXXXXXX>, Waste Discharge Requirements and National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles and Ventura Counties*) (Working Proposal). After receiving many comments across stakeholders on the Working Proposal, including from the San Gabriel Valley Council of Governments (SGVCOG), the LARWQCB updated and released the Tentative Order for the Regional Phase 1 MS4 NPDES Permit (*Tentative Regional Phase 1 MS4 Permit Order No. <R4-20XX-XXXX>, NPDES Permit No. <CAS004004>, Waste Discharge Requirements and National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles and Ventura Counties*) (Tentative Permit) on August 24, 2020.

When finalized and adopted, this Permit will supersede the current 2012 MS4 Permit (subsequently amended) and will dictate the activities and requirements of the Permittees, including SGVCOG member agencies, over the next permit cycle. The SGVCOG member agencies includes 30 incorporated cities, unincorporated communities in Los Angeles County Supervisorial Districts 1, 4, and 5, and three San Gabriel Valley Municipal Water Districts. The following summarizes the SGVCOG's comments in response to the *Tentative Regional Phase 1 MS4 Permit Order*, dated August 24, 2020.

The SGVCOG appreciates the opportunity to provide these comments and looks forward to continue supporting the LARWQCB to develop a Final Permit that includes provisions that are technically and financially feasible, while achieving environmental benefits within our communities.

The following summarizes the SGVCOG's key areas of concern on the Tentative Permit. Detailed comments and recommendations regarding specific sections in the Tentative Permit are provided in Appendix A.

Summary

The following discussion highlights the SGVCOG's key areas of concern and proposed recommendations, including comments that were previously submitted and were not addressed in the current Tentative Permit. The proposed recommendations are bolded within each area of concern. These comments support the overall goal to improve water quality conditions in the Los Angeles region following a cost-effective and efficient approach. This goal can be achieved through the development of regulations and permit requirements that are aligned with real-world circumstances faced by the Permittees.

Timing of Permit Adoption and State Board Order Implications:

Concurrent with the Permit reissuance effort, it is important to consider the related State Water Resources Control Board (State Water Board) Tentative Order (*State of California State Water Resources Control Board Tentative Order WQ 2020-XXXX In the Matter of Review of Approval of Watershed Management Programs and an Enhanced Watershed Management Program Submitted Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175*) reviewing the LARWQCB's approval of various Watershed Management Programs (WMPs) and Enhanced WMPs (EWMPs) (State Water Board Order). The initial Order was released on December 6, 2019, and was revised based on comments received through early April and redistributed on September 4, 2020. This Order addresses specific requirements of the Permit that are important to consider as part of the Permit review. While some of the key issues identified by the State Water Board have already been integrated into the Tentative Permit, the State Water Board Order has not been finalized and further revisions of the Tentative Permit may be incorporated by the LARWQCB to comply with the State Water Board Order. The details of the State Water Board Order, which impact the Permit provisions and analyses Permittees will be required to complete, will not be finalized until its adoption.

Given the potential impacts of the State Water Board Order on the Permit and additional requirements for the Permittees implementing a WMP or EWMP, **it is assumed that the State Water Board Order will be finalized prior to the adoption of a new Permit.** This sequence is necessary to ensure the Permit would not have to be further revised to comply with the State Water Board Order, as well as to prevent a duplication of effort by the Permittees to address the new Permit and the State Water Board Order. For the same reason, **the new Permit should also delay adoption as needed to ensure the proposed Basin Plan Amendment(s) that will modify TMDL final deadlines can be included as the revised dates in the new Permit. In addition, sufficient time (recommend at least 6 months) will be needed once the new Permit is formally adopted to allow the Permittees to incorporate the required updates through the Reasonable Assurance Analysis (RAA) revisions. Depending on the timing of the State Water Board Order adoption and subsequent Permit adoption this may require extending the current deadline of June 30, 2021 for completion of the revised RAAs.** This extension is necessary to prevent an unnecessary and costly duplication of effort to ensure the appropriate analyses are included in the revised RAAs to satisfy regulatory requirements. The SGVCOG encourages the LARWQCB to support the sequence of events and the recommended time extension, as any other order or insufficient time between these regulatory adoptions and the required RAA revisions may result in inefficiencies and the need to go back and redo one of these efforts. The timing outlined above is to ensure the most appropriate policy is set in place and thorough, informative analyses, that fully satisfy the current tentative regulatory orders, are completed through the upcoming RAA revisions. The Permittees are already planning for the RAA revisions which are significant investments, ranging around \$75k – 350k each. If the State Water Board Order and resulting additions to the Permit require additional analyses as part of the RAA revisions, this will potentially double the cost and further emphasizes the importance of having sufficient time from Permit adoption to conduct the technical updates and additions.

Furthermore, the Regional and State Boards' appeal of the decision in favor of the City of Duarte in the matter of *City of Duarte v. State Water Resources Control Board, et al.* (Case No. 30-2016-00833722) is still pending, with oral arguments having been conducted before the Court of Appeal on November 17, 2020. The findings and analysis associated with that final decision may further impact the Tentative Permit.

Fiscal Resources:

In general, the economic considerations included in the Tentative Permit are lacking in detail. This is an extremely important aspect to consider when assessing the Permittees ability to satisfy regulatory requirements. The Permittees will have the most success improving water quality conditions if we are able to focus the available resources on regulations with achievable goals, which requires a realistic discussion regarding the cost of compliance versus available funding.

Attachment F, the Fact Sheet in the Tentative Permit, includes economic considerations that estimate the 20-year cost of compliance at \$21.3 - \$31.4 Billion. The first method used to calculate this cost was based on TMDL Staff Reports that are now outdated and did not include the cost of implementing minimum control measures, monitoring costs, costs to address TMDLs if the Staff Report did not have a cost estimate, and only included the cost of addressing trash if there was a specific TMDL, not the overarching requirements of the statewide trash amendment. While the second method used the more recent cost estimates to fully implement the WMPs and EWMPs in the region, both methods still rely on the cost of stormwater management programs based on annual expenditures and budget data self-reported, which has not been consistent across the Permittees. Further, many of the cost estimates in the WMPs and EWMPs did not include additional costs such as acquiring property necessary for some structural BMPs, the full cost associated with operation and maintenance of BMPs, or the costs associated with implementation of the adaptive management program. Other cost estimates of compliance estimated in the past have been significantly higher. For example, the County of Los Angeles has recognized that the cost of complying could be as high as \$120 Billion. Likewise, a recent study on Stormwater Funding Options recognizes that the cost of complying could be as high as in the tens of Billions over the next 20 years. Further, the University of Southern California's Study of "An Economic Impact Evaluation of Proposed Storm Water Treatment for Los Angeles County" have estimated costs as high as \$283.9 Billion over 20 years.

The Fact Sheet also potentially overstates the available funding sources, with reference to Measures H, A, and M, that are not dedicated stormwater funds and Permittees have minimal or no access to use to address the requirements of the MS4 Permit. Other available funding sources are generally referenced, as well as a brief discussion on the potential impacts from COVID-19; however, a sufficient analysis to demonstrate that the cost of compliance is feasible based on available funding has not been completed. Even prior to completing a sufficient financial analysis, it is clear the cost estimates to fully implement the Permit are greater than the funding available. **The SGVCOG recommends that the Permit include a provision that allows Permittees to conduct a financial capability assessment that would be used to help determine an effective and feasible implementation schedule and associated compliance deadlines.**

In addition, it should be noted that the primary dedicated source of funding that most cities currently have for Permit compliance is through their upcoming Local Return through the Safe, Clean Water (SCW) Program. The SGVCOG member agencies do not anticipate any available funding beyond the SCW Program funds. In addition, the regional allocations to each watershed will be awarded competitively. The SGVCOG is concerned that the regional allocations coupled with the Local Return will not provide enough funding to complete all the projects required to comply with the Permit requirements, especially within the current designated timeframes. **Given that Measure W is the only dedicated stormwater funding source, we recommend that the Permit have more explicit integration with the SCW Program, as discussed further in the comments below.**

Integration of the Safe, Clean Water Program:

The SCW Program and passage of Measure W was a major success for the Los Angeles Region and should be further leveraged knowing the available funds that can be used towards meaningful implementation and

compliance. The SCW Program is the primary source of dedicated funding for the LA County Permittees. The municipal and regional programs are expected to significantly support implementation of Permittees' WMPs and implementation of these infrastructure projects will be the primary factor in achieving TMDL compliance. The SCW Program establishes multiple goals, including in addition to water quality benefits also water supply, cost efficiency, nature-based solutions, and community investment benefits. Therefore, the funds will not be exclusively spent on compliance, though this will be a significant portion, and additional time is required to ensure optimization across these benefits. To improve the certainty that actions taken will ultimately result in attainment of beneficial uses, the Permit should provide flexibility such as alternative compliance pathways and extended time to implement appropriate actions utilizing scientific advancements and best available information/data. Given the success securing this funding measure, which helps enable the commitment towards implementation of approved WMPs, **we recommend that the Permit integrate the fundamental aspects of the program to help align regulatory compliance with realistic and achievable implementation.** Initial recommendations to integrate the program include the following:

- **Allow WMPs to incorporate schedule adjustments to projects based on the Local Return and regional program support identified in the Stormwater Investment Plans (SIPs) through the adaptive management process.**
- **Coordinate with the Los Angeles County Flood Control District and the Watershed Area Steering Committee Chairs to evaluate anticipated SCW Program funding in relation to planned and proposed infrastructure projects and TMDL deadlines.**
- **Provide credit to cities and agencies contributing funds through the regional program to projects outside their jurisdiction through extensions on their milestones. This recognizes the competitive aspect of the regional program, which should prioritize projects with the greatest watershed benefit but could result in certain jurisdictional projects being pushed to later fiscal years. This would not necessarily impact the number of projects to be implemented but provided flexibility to the schedule.**
- **Allow for extensions to compliance deadlines based on the available funding, with sufficient justification that the updated deadline can be met with the known funding.**
- **Tie permit compliance requirements to the availability of funding, and the Permittee's agreement that such requirements are appropriate.**
- **Align SCW Program reporting requirements in terms of format and schedule to satisfy the Permit required reporting.**

If these recommendations are incorporated in the Permit, this will also help facilitate the selection of projects under the SCW Program that are best aligned with Permit compliance.

Better Define Compliance Attainment:

The compliance pathway through approved WMPs should clarify receiving credit for local pollutant load reductions with pre- and post-implementation monitoring versus an observed response in receiving waters. This is related to final compliance attainment. **If an approved WMP is properly implemented and all project milestones are met, but final WQBELs or RWLs are still exceeded, we recommend that the Permit provide coverage for the Permittees through deemed compliance to address through the adaptive management process, rather than being at risk of an immediate violation.** The whole concept of the adaptive management process is to continue improving the program towards attainment of environmental objectives and this coverage will further encourage Permittees to fully embrace adaptive management. **In addition, we recommend establishing a clear policy and guidelines for Permittees to demonstrate that all work associated with prior and current milestones was completed.** This will help assure all stakeholders that established milestones are being met and further justifies coverage under final compliance with the use of adaptive management as needed.

Regarding the alternative compliance pathway to address the 85th percentile, 24-hour event, it is important to recognize that volume capture may not provide a viable compliance strategy for certain pollutants (e.g., bacteria) and other types of water quality impairments (e.g., habitat-related impacts). **The Permit should allow flexibility in determining an alternative compliance pathway that can be used to demonstrate final compliance.** This flexibility will allow for greater compliance certainty and aligns with recent scientific studies and the development of innovative approaches and tools that can be used to enhance water quality improvement.

Reporting:

The Tentative Permit reporting requirements are expanded from the existing 2012 MS4 Permit (which the SGVCOG is concerned ignores the Court's findings with regards to the Cities of Duarte's and Gardena's lawsuits) and will take significant time and resources to complete. The following recommendations aim to streamline these efforts so the information gathered provides meaningful feedback and available funding can be better spent on implementation efforts. **Additional reporting requirements include the annual report forms that require significant additional financial reporting, but do not provide adequate guidance. Additional clarity is needed regarding the LARWQCB's expectations.** The additional requirement for Permittees participating in a Coordinated Integrated Monitoring Program (CIMP) to submit a Monitoring Report twice a year doubles the annual reporting effort. This additional reporting would result in additional reporting costs for Permittees, which could more effectively be used to support implementation.

We recommend updating the reporting periods to better align with the schedules in program plans, to increase the utility of the data collected to help guide implementation. The Permit should provide flexibility for the LARWQCB to coordinate with the Permittees on a more appropriate reporting schedule. In addition, individual Permittee reporting requirements should be limited to avoid redundant efforts where the watershed reports provide the overall progress of the program. Overall, the extensive cost to comply with the reporting requirements is not proportionate with the usefulness of these reports. Prior to much of the program's implementation (during planning and design phases), the reporting could be further spaced apart, then once implementation occurs an annual frequency may be more reasonable and useful.

Moreover, including the reporting forms in the Permit does not allow flexibility to modify the forms as may be necessary or desired in the future. To allow for the opportunity to adjust reporting to better meet the needs of all stakeholders, **the SGVCOG recommends that the reporting forms be removed from the Permit.** Instead, the Permit should allow for the LARWQCB to amend and adopt the annual report forms on a regular basis to make improvements to these forms and the annual reporting process.

Furthermore, the Permittees will be required to provide financial reporting to Los Angeles County regarding their use of SCW Program funds. **We encourage LARWQCB staff to closely coordinate with Los Angeles County in the development of financial forms to avoid redundant reporting.**

Overall, the SGVCOG and its member cities have significant concerns with the current and increased reporting responsibilities and the financial burden associated with the more stringent requirements that could be better prioritized.

Monitoring:

As stated above on the reporting requirements, the SGVCOGs recommendations aim to streamline the monitoring efforts so the data gathered still provides meaningful feedback and available funding can be better spent on implementation efforts. **The monitoring requirements could be better correlated with implementation status (e.g., monitor less frequently in the early stages of the program and then more frequently after watershed control measures have been more widely implemented).** Costs to Permittees to complete this monitoring in preliminary years where much of the program is still in the planning and design phases, could be better spent on implementation. **Monitoring could also be more**

strategically employed through a tiered approach that focuses first on downstream conditions, and only moves upstream if needed. Overall, given the extensive costs to comply and the disproportionate value in the data at this time, we are requesting a more critical look at these requirements.

The additional aquatic toxicity monitoring requirements will require time to fully review. While the costs of monitoring these four freshwater species will be extremely high, without additional analysis, permittees will not be able to estimate the actual compliance costs. Since Permittees cannot evaluate the cost of compliance, the LARWQCB cannot evaluate the financial impacts of this new requirement. **We recommend that the Permit acknowledge this gap and provide a pathway for potential adaptations to the aquatic toxicity monitoring requirements once sufficient cost analyses are complete.**

In addition, we recommend that the Permit provides flexibility to streamline monitoring efforts where appropriate. The current monitoring requirements select a limited number of events to sample over the year for all identified pollutants, which is expensive for each sampling event. However, these are only a handful of events and only tell us so much about the overall conditions in the watershed. **A more streamlined and informative approach would be to sample more events but measure inexpensive proxies (supported by statistically significant data), such as sediment, in place of more expensive pollutant sampling and analysis.** This could be set up to be equivalent or less expensive than the current monitoring efforts and provide much more information to the Permittees and stakeholders on the state of the watershed. **Permittees should be able to justify reducing monitoring requirements for select constituents if they can demonstrate associated trends and progress in reducing pollutants.** The Permittee would measure these surrogate parameters, as appropriate, on a consistent basis, then include validation at selected times that would explicitly sample the specific pollutants of concern to further support the approach.

Compliance Schedules:

The Tentative Permit specifies that Permittees must comply with water-quality based effluent limitations immediately. Previously in the 2012 MS4 Permit, Permittees had 90 days to meet compliance deadlines. The SGVCOG has concerns that the requirement for immediate compliance ignores the Court's findings with regards to the Cities of Duarte's and Gardena's lawsuits. Regardless, as the LARWQCB develops the Permit, **a WMP being developed and implemented in good faith by the Permittees that is determined to be "inadequate" by the LARWQCB should be allowed a grace period to correct inadequacies.** This would still allow for the LARWQCB to address gross non-compliance while providing a path for WMPs with very minor and easily correctable flaws to continue addressing water quality goals.

Many of the original TMDLs have optimistic compliance schedules, which have previously been recognized as such by Board staff. There is flexibility in the Tentative Permit for Permittees to request extensions, in addition to the knowledge that the Board staff are currently working on a TMDL extension Basin Plan Amendment. **As an initial alternative, we recommend that the Board withhold adopting the new Permit until after the TMDL extension Basin Plan Amendment(s) have been approved and can be incorporated into the Permit. Alternatively, we recommend that the current schedules, at a minimum, recognize the anticipated TMDL deadline extensions from the Basin Plan Amendment(s) and ultimately the revised schedules will automatically be incorporated in the Final Permit.** The amendment is currently focused on specific TMDLs identified with near term deadlines. **We recommend the TMDL extension Basin Plan Amendment effort be extended to include other TMDLs where appropriate, particularly those with final deadlines prior to 2030.** Even with these extensions, there are remaining recommendations for better integration of the SCW Program regarding alignment of compliance schedules, which is further detailed in the comments above.

The process of planning, designing, constructing, testing and operating projects to implement best management practices takes longer than five years. In addition, the SCW Program funding schedule could exceed this timeframe. **Instead, if compliance within five years is not feasible for a Permittee, then the**

Permittee should be able to demonstrate a plan towards compliance that it will implement as funding becomes available.

In addition, regarding the Bacteria TMDLs, the current timeframe for compliance is particularly unreasonable given recent scientific studies that indicate the need to reduce sources of human waste in order to meet recreational beneficial uses. Implementation is shifting to provide greater focus on source control efforts rather than structural project implementation and volume control which can be ineffective in reducing pathogens and recreational health risks. A longer schedule is needed to adapt current implementation programs, as is currently underway in the Upper Los Angeles River watershed with the Load Reduction Strategy Adaptation Plan.

Overall, this area of concern emphasizes that it is more important to implement the right programs and strategies to achieve the environmental and water quality goals driving the Permit than meeting a set milestone to complete a specified action. We do not want to rush forward in order to meet a set deadline that is unreasonable and potentially sacrifice a more thoughtful and effective approach. Some of the critical water quality objectives in older TMDLs are no longer aligned with the best available science. Examples of this include the Bacteria objectives that should be adjusted to focus more directly on allowable risk and move away from the use of Fecal Indicator Bacteria, as well as shifting towards the use of site-specific methods for metals (e.g., Biotic Ligand Model, Water Effect Ratio studies) to identify potential impacts to aquatic life. Necessary updates to water quality objectives can be used to clearly identify where beneficial uses (e.g. recreational use in relation to bacteria and aquatic life in relation to metals) are impaired and require action. **The main recommendation is for flexibility in the Permit to incorporate new information and advancements and, when necessary, provide the appropriate additional time to successfully do so.**

Consistency Across Permits:

We recommend eliminating redundancy or contradictions across permits and ensure requirements for Phase I, Phase II, Industrial General Permit, Agricultural Order, etc., encourage collaboration across responsible parties. Water quality impairments are due to a number of influences which is why a watershed-wide approach is valuable to coordinate on the most cost-effective solutions. However, **the MS4 Permit should only contain requirements within the Permittees control and while collaboration is encouraged, compliance should not be reliant on it.** Permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators. As currently drafted, the Tentative Permit purports to make the Phase I MS4 Permittees liable for the actions of other discharges, which is inappropriate. **In addition, RAAs should be given flexibility to quantify Phase I MS4 responsibilities (e.g., load reductions) in order to encourage compliance as well as promote shared responsibility with other Permittees.**

Define Performance Metrics for Non-Structural Strategies and Concise, Useful Tracking:

The appropriate metrics for non-structural/non-modeled strategies still require further development to assess the effectiveness of these strategies and how to link to monitoring data. The assessments should be done in a clear and concise manner that provide meaningful feedback on progress and effectiveness to best support management decisions. **We recommend general guidelines be developed by a technical team, which will require time, to ensure consistency across Permittees.**

The current tracking requirements across Permittees programs for non-structural strategies are often time consuming and the data is not in a useful format to assess progress. **We recommend one consolidated tracking system that houses the information relevant to the Permit and helps succinctly assess effectiveness and streamlines Annual Reporting, providing more valuable information to the LARWQCB, as well as the Permittee to better manage its programs.**

Industrial General Permit (IGP) Training and Inspections:

The Tentative Permit clarified from the Working Proposal that training requirements can continue utilizing existing resources. However, **additional clarity is still requested on which employees are required to take the training, as the current language of “pertinent staff” is vague and would benefit from more specificity.** It is not clear whether Permittees would be exempt from this training if the inspection work is outsourced to contractors, a point which requires clarification. **The SGVCOG believes that the IGP training should only be required for those individuals who actually perform the inspections.**

Permit Contradictions:

The Board should clarify with a statement (in the appropriate section of the Permit) as to why Permittees in Reach 2 and Reach 3 of the Rio Hondo river are included for the Los Angeles River Metals TMDL. Permittees are listed within the approved TMDL and current MS4 permit; however, Reaches 2 and 3 are not included in the 303(d) lists. **The SGVCOG is requesting an explanation and justification for this apparent contradiction.**

Clear Language:

Tentative Permit language in places allows for multiple interpretations, in some cases out of line with the original intent. Specific comments are provided in Table A-1 where this has been identified. Overall, **recommend including additional clarity while maintaining flexibility to allow for scientific advancements and better information/data regarding protection of beneficial uses and MS4 responsibilities in the future.**

Sincerely,

Marisa Creter
Executive Director

Appendix A: Detailed Comments and Recommendations

In addition to the key areas of concern summarized in the comment letter, Table A-1 provides detailed comments on the Tentative Permit. Previous comments submitted by the SGVCOG on the Working Proposal that are still applicable in the updated Tentative Permit are included in Table A-1.

Table A-1. Comments on the Tentative Permit

| Tentative Permit Section; Page | Comment |
|--|--|
| Table 4; Page 7 | Consider setting the effective date as July 1, 2021 (rather than 50 days from adoption date) to align with the Reporting Period. |
| III. Discharge Prohibitions | |
| III.A; Page 12 | Specify this prohibition should not apply to any invasive animal or plant life. |
| III.B.3.a; Page 13 | Recommend adding discharges from recycled water systems as a conditionally exempt discharge. Definition of recycled water discharge could be: "Discharges from recycled water systems includes sources of flows from recycled water storage, supply and distribution systems (including flows from system failures), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and pump stations." |
| III.B.5.a.i; Page 14 | The requirement for all conditionally exempt non-stormwater discharges to notify the Permittee in advance is excessive given the range of exempt discharges (includes landscape irrigation, car washing, etc.). Recommend distinguish this requirement for specific discharge categories relative to the potential impacts. |
| III.B.5.b; Page 15 | For discharges greater than 100,000 gallons, recommend continue to coordinate with County/Water Purveyors releases of this size for safety reasons downstream. |
| III.B.8; Page 16 | Clarify if notifying the Board within 30 days is from the time when the discharge occurred or when the Permittee determines the discharge contributed to an exceedance. |
| III.B.9; Page 16 | Recommend modifying the end of this sentence to include: "...source of pollutants to receiving waters " |
| III.C.2.d.ii; Page 24 | Consider not including limit of time schedules throughout. Any proposed timeframe can be denied by the Regional Board but there may be some exceptions that warrant an extended period. |
| III.D; Page 25 | Please clarify why this prohibition for insecticides, fungicide and rodenticides are not applicable to products used for lawn and agricultural purposes. |
| IV. Effluent Limitations and Discharge Specifications | |
| IV.B.2.c.iv; Page 28 | Recommend adding language that Permittees will have the opportunity to revise a Watershed Management Program if it is initially found to be inadequate. A grace period should be provided to correct any inadequacies. |
| IV.B.3; Page 28 | Refer to area of concern regarding the zero trash effluent limitation for the Trash TMDLs. |

| Tentative Permit Section; Page | Comment |
|--|--|
| VI. Standard Provisions | |
| VI.C; Page 38 | Please clarify how the Regional Board will ensure that information collected in the Annual Reports will be utilized to complete fiscal analysis as required by the State Auditors. Will specific instructions be provided in the Annual Report to prevent any discrepancies between Permittees when financial data is provided. Please consider re-wording or expanding on this requirement. It can be interpreted that permittees must enumerate and describe all funds necessary to meet all requirements for implementation for the future year. There will undoubtedly be occasions when all funding sources anticipated for the upcoming year simply to do not meet what is estimated for full implementation. |
| VI.G.4.b; Page 40 | Requiring more frequent monitoring or reporting may not be considered a minor modification if it has significant implications to a Permittees cost of compliance and therefore likely impact a Permittees ability to comply with other requirements of the Permit. |
| VIII. Storm Water Management Program Minimum Control Measures | |
| VIII.A.3.b; Page 41 | If any of the requirements of this section (VIII.A.3.b) are redundant with training held by the Department of Pesticide Regulation or other agencies, it would be good to have such training referenced in this section as qualifying for satisfying the training requirement. |
| VIII.B.1.d-e; Page 42-43 | <p>Regarding facilities/sites that require an NOI or NEC: Recommend allowing a Permittee to skip the process of one inspection and one written notice prior to referral. Once identified by the Permittee, it would seem efficacious to notify the Board. Versus waiting for a Permittee's attempts to compel IGP/CGP enrollment. So that Board staff can begin the process of compelling IGP/CGP coverage from the operator. In addition, for certain light industrial operations, IGP coverage can be a matter of interpretation of the SIC Manual. In these instance it would be best for the Regional Board to make the determination from the start.</p> <p>In addition, recommend setting up a recommended frequency for notification of potential IGP non-filers. Context: After the issuance of the 2012 LA/2014 LB MS4 Permits, the 2015 IGP added a large swath of light industries to its coverage. Many of these businesses are small in both size and operations and as such 1) are much more common than heavy industries, and 2) start and cease operations much more frequently than heavy industries. This means that Permittees may come across new potential non-filers on a regular basis, primarily through business license and MS4 NPDES inspections. Taking this into consideration, a regular frequency of notification may streamline the process for both Permittees and Regional Board staff. (For example, under the North Orange County MS4 NPDES Permit, there is a quarterly notification process in place.)</p> |
| VIII.D.4.a; Page 45 | Recommend providing additional guidance on the metrics for measuring effectiveness of public education efforts, which otherwise could take many forms and vary significantly across Permittees. |
| VIII.E.2.a.ii.(c); Page 46 | Recommend providing a footnote that provides a hyperlink to the online database of such industrial facilities. |
| VIII.E.2.a.iii; Page 46 | Recommend listing the corresponding SIC codes for these facilities, and/or referring to the Attachment A definitions. Also for consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining these facilities in Attachment A using the SIC Code manual definition. |

| Tentative Permit Section; Page | Comment |
|---|--|
| VIII.E.3; Page 47-48 | This Tentative Permit updated the Working Proposal section on Requirements for Industrial Sources (VIII.E.4) to include in the Business Assistance Program that Permittees could refer businesses to the LA Regional Water Quality Control Board or State Board for further technical assistance and also updated the inspection frequency for sites that do not have exposure to stormwater to every 5 years. Recommend the same updates be made to the Requirements for Commercial Sources (VIII.E.3). |
| VIII.E.5; Page 49 VIII.G.5.a; Page 67 VIII.G.6.b.ii.(c); Page 69 VIII.H.3.a; Page 71 | Recommend referencing a resource for Permittees to consider for applicable source control BMPs. (Such as the CASQA Handbooks.) |
| VIII.F.2.b; Page 54 | In addition to the specific projects listed, exemptions to hydromodification controls should include an option for Permittees to prove no adverse hydromodification effects occur to beneficial uses in the Natural Drainage System. |
| VIII.F.4-5; Page 58-66 | May consider integrating aspects of the Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees (VIII.F.4) to integrate options for Los Angeles County Permittees (VIII.F.5) and vice-versa. |
| VIII.G.4.b.ix; Page 67 | Recommend removing the post-construction BMP description as it is already logged through the tracking requirements of VIII.F.3.c.i. Also, consider moving the "comparison of pre-storm water runoff volume to post-construction runoff volume" tracking to VIII.F.3.c.i. |
| VIII.G.5.b; Page 68 | Currently construction sites are inspected once a month during rainy season, unless a follow-up inspection is required due to a deficiency. Please clarify what "inspect as needed" means. |
| VIII.H.5.a; Page 74 | If any of the requirements of VI.D.8.e.ii and VI.D.8.e.iii are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear which requirements are specific to the MS4 Permit. |
| VIII.H.5.b-c; Page 74-85 | If any of the requirements of VIII.H.5.b and VIII.H.5.c are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear which requirements are specific to the MS4 Permit. |
| VIII.I.8.b; Page 80 | Recommend exemption of tracking for discharges of negligible impact that do not enter a storm drain inlet. For example, the standard could be, "Tracking is not required for discharges of less than X gallons that do not reach a storm drain inlet." The reason for this requested exemption is that the administrative cost of this tracking outweighs the value of the data recorded. (The time could be better spent addressing other MS4 Permit requirements.) |
| VIII; Page 40-80 | For all minimum control measures note development of recommendations/guidance for appropriate metrics for measuring effectiveness will be needed. |
| IX. Watershed Management Programs | |

| Tentative Permit Section; Page | Comment |
|--------------------------------|---|
| IX.A; Page 81 | Please consider if Safe, Clean Water Program Stormwater Investment Plans (SIPs) are to be included into the Permit as mentioned by the County at the first workshop, how will those projects that remain unfunded be able to achieve compliance through alternative funding? |
| IX.A.4.d; Page 81 | Recommend updating to reflect that modifications to the strategies, control measures, and BMPs may also be based on information gathered outside of the MRP. |
| IX.A.4.e; Page 81 | Recommend providing more detailed description on the “appropriate opportunity for meaningful stakeholder and community input”. This could potentially take many forms and would be helpful to understand what the Board deems as appropriate. |
| IX.A.4.k; Page 82 | Strategies, control measures, and BMPs should be designed to achieve applicable WQBELs and RWLs, which can be demonstrated through an RAA. Reference to retaining the volume of the 85th percentile, 24-hour storm event should be reserved for later discussion that this option provides deemed-compliance for the associated drainage area without requiring an RAA. In many cases, building such control measures is infeasible in most areas and exceeds necessary controls to attain the water quality objectives, where costs could have been better spent in other areas to address the variable and spatial extent of WQBELs and RWLs. Increasing project size to capture the 85th percentile, 24-hour storm event may result in the misapplication of limited funding resources. Watershed Management is complex and requires optimum target investments and appropriate water quality standards. |
| IX.B.4.a; Page 83 | Recommend also considering the severity of impaired beneficial uses and the relative level of exceedance of WQBELs and Receiving Water Limitations when sequencing the water quality priorities for TMDLs, rather than solely based on the compliance schedules. |
| IX.B.5.b; Page 84 | Recommend adding back in the retrofitting of existing developed areas to the list of potential control measures. |
| IX.B.5.b.i.(a); Page 84 | Recommended removing “Vegetated” before nature-based solutions. There are nature-based solutions that aim to restore/promote natural processes that do not necessarily rely on vegetation. |
| IX.B.5.b.ii.(b); Page 84 | Please clarify if Permittees are required to adopt plastic bag, straw and styrofoam bans as proposed as non-structural controls regarding human source management. |
| IX.B.7.a; Page 85 | Requiring legal authority to implement the identified control measures could potentially limit beneficial collaboration across parties that are not direct Permittees. |
| IX.B.7.g; Page 86 | The RAA will be dependent upon the availability of data. Recommend some language that acknowledges this limitation. |
| IX.B.7.g.ii; Page 86 | Recommend noting that the calibration of models should also be consistent with the applicable critical conditions for the pollutants of concern. |
| IX.B.7.g.iii; Page 86 | Given the extent of available data, recommend noting that validation should be performed, if relevant independent data not required for calibration are available. |

| Tentative Permit Section; Page | Comment |
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| IX.B.7.g.iv; Page 86 | Recommend providing additional guidance/recommendations on the quantitative reasoning required to demonstrate a WBPC being addressed by the limiting pollutant approach. |
| IX.B.7.g.v; Page 86 | Please clarify if the use of a modified WMMS model calibrated for a particular watershed still satisfies the QA/QC requirements. |
| IX.B.7.g.vi; Page 86 | Recommend noting that the assessment of control measure performance will be an iterative process as more of this type of data is gathered in the WMA as control measures are implemented. |
| IX.C.3; Page 87 | Permittees should be able to request an extension of final compliance deadlines with TMDLs. |
| IX.E.1.c; Page 88 | Consideration of the achievement of requirements for storm water volume addressed in adaptive management should include an “as applicable”, given not all WMPs have set targets based on the volume addressed. |
| IX.E.1.e; Page 88 | Recommend reassessment of sources of pollutants not be limited to MS4 discharges, as modifications may also be warranted if significant sources outside of the MS4 are identified to be impacting receiving waters. |
| IX.E.1; Page 87-88 | Recommend including re-evaluation of identified control measures in the program and costs of implementation. |
| IX.E.4.f; Page 88 | Recommend adding a note that comparison of control measures completed to date with control measures projected to be completed to date pursuant to the WMP should include additional control measures implemented outside of the existing WMP |
| IX.E.5; Page 89 | Please consider the impacts of additional costs incurred when implementing measures as part of adaptive management are considered and the time to secure such funding. |
| X. Compliance Determination for QBELs and Receiving Water Limitations | |
| X.B.1.b; Page 94 | Necessary deviations from an approved WMP may justify adjustments to the final deadlines for project completion or program implementation, under approval of the Executive Officer and appropriately incorporated in the WMP through the adaptive management process. Recommend removing this circumstance from allowing minor deviations in an approved WMP. |
| XI. Enforcement | |
| XI.B.1; Page 99 | Recommend where reference the zero trash effluent limitation to include a qualifying statement with the acceptable compliance pathways that result in attainment of this object. |
| Attachment A - Definitions | |
| Att.A - Illicit Discharge; Page A-9 | Recommend clarifying definition to answer the question: Does an illicit discharge include a discharge of pollutants in storm water that has not been reduced to the maximum extent practicable? |
| Att.A - Non-Storm Water Discharge; Page A-13 | Recommend clarifying definition to answer the question: Do non-storm water discharges include discharges of pollutants in storm water that have not been reduced to the maximum extent practicable? |

| Tentative Permit Section; Page | Comment |
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| Att.A – Restaurant; Page A-16 | For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining restaurants by the SIC Code manual: "Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry." |
| Att.A - Retail Gasoline Outlet; Page A-16 | For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend referring to Retail Gasoline Outlets as Gasoline Service Stations and defining by the SIC Code manual: "Establishments primarily engaged in selling gasoline and lubricating oils. These establishments frequently sell other merchandise, such as tires, batteries, and other automobile parts, or perform minor repair work. Gasoline stations combined with other activities, such as grocery stores, convenience stores, or carwashes, are classified according to the primary activity." |
| Att.A – Vehicle Maintenance/Material Storage Facilities/Corporation Yards; Page A-20 | Note Corporate Yards are referred to as a Public Works Yard in Section VI.D.8.b Table 11. Recommend using one term. |
| Attachment E – Monitoring and Reporting Program | |
| Att.E.II.H.8; Page E-5 | Requiring to incorporate new MDLs in the monitoring program should also consider the financial burden of implementing (in addition to analytical methods improving and becoming more environmentally relevant) |
| Att.E.V.A.2.a.ii; Page E-17 | The new provision for subsequent wet weather events could be interpreted to modify the current provision to target wet weather events greater than 0.25 inches of rain to greater than 0.1 inches of rain. If this is the case, the new minimum wet weather target would increase the risk of a false start, decrease the amount of runoff represented in the sample, and cause other event pacing issues. Recommend that the minimum wet weather target remain the same. |
| Att.E.V.A.3; Page E-18 | The new requirement to conduct receiving water wet weather monitoring within 6 hours of stormwater outfall-based monitoring may be infeasible for marine receiving water sites. Please provide guidance language for wet-weather monitoring at marine receiving water sites. |
| Att.E.VI.A.5.b.i.(a); Page E-25 | The new requirement for flow-weighted composite samples to have a minimum of 3 samples per hour that are separate by at least 15 minutes is infeasible due to rainfall variability. Generally, as flow increases, the sampling frequency increases. The beginning and ending of an event can sample at a rate less than three times per hour, and middle of an event can sample at a rate less than once every 15 minutes. Recommend that the minimum samples and rate serve more as guidelines and targets rates rather than requirements. |
| Att.E.IX.H.1-3; Page E-30 – E-31 | The requirement to test four freshwater species will add substantial labor, cost and volume requirements for the first year of monitoring. Increased volume requirements will make it more difficult to collect sufficient volume of water through flow compositing. This will also likely result in adjacent watersheds evaluating different sensitive species and result in a lack of consistency with aquatic toxicity monitoring. Unclear how results of the test would be assessed if not consistent across test species. Please also consider the proposed Urban Pesticide Amendments' Statewide Coordinated Monitoring Program. Recommend including some language in the Permit to advise Permittees on the |

| Tentative Permit Section; Page | Comment |
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| | Board's stance on joining the Urban Pesticide Amendment and what the process would be for opting into this program. Please provide reasoning for the requirement to test four freshwater species. |
| Att.E.XIV.B; Page E-37 | The new requirement for semi-annual monitoring reports doubles the annual reporting effort, which could potentially be better spent on implementation efforts. |
| Attachment F – Fact Sheet | |
| Att.F.III.K; Page F-93 | If Permittees were to consider climate change offsets in modeling or with BMPs, this would require changes to the WMPs through Adaptive Management. When would this be required by if included in the Permit? This would require Permittees to incur additional costs for analysis and modeling. Has the LARWQCB/SWB conducted a cost-benefit analysis to determine feasibility of considering climate change offsets? |
| Att.F.XIII; Page F-283 | What is considered "appropriate"? |
| Attachment H - Annual Report Forms | |
| Att.H | Please clarify what is requested for cost for the Public Agency activities. This is where everyone reports differently with no clear format. |
| Att.H | Recommend that the Annual Report form not be included as an attachment. We anticipate continued improvements in the Annual Reporting process in the coming years, with a focus on reporting on key performance indicators and providing meaningful information. With an Annual Report form written into the Permit, this would prevent reporting improvements for a minimum of 5 years. (It seems unlikely that the Permit would be reopened for moderate improvements to the Annual Report forms.) |
| Att.H | Recommend considering any and all methods of avoiding redundancies. For example, consider maintaining WMP level reporting, enhanced by individual City-specific details. |



November XX, 2020

Renee Purdy, Executive Director
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

RE: COMMENTS ON THE TENTATIVE ORDER OF THE REGIONAL PHASE 1 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (ORDER R4-2020-XXXX)

Dear Ms. Renee Purdy and Regional Board Staff:

On December 10, 2019, the Executive Officer of the Los Angeles Regional Water Quality Control Board (LARWQCB) released a staff working proposal for the draft Regional Phase 1 MS4 NPDES Permit (*Staff Working Proposal of the Regional Phase 1 MS4 NPDES Permit Order No. <R4-2020-XXXX>, NPDES Permit No. <CASXXXXXX>, Waste Discharge Requirements and National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles and Ventura Counties*) (Working Proposal). After receiving many comments across stakeholders on the Working Proposal, including from the San Gabriel Valley Council of Governments (SGVCOG), the LARWQCB updated and released the Tentative Order for the Regional Phase 1 MS4 NPDES Permit (*Tentative Regional Phase 1 MS4 Permit Order No. <R4-20XX-XXXX>, NPDES Permit No. <CAS004004>, Waste Discharge Requirements and National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles and Ventura Counties*) (Tentative Permit) on August 24, 2020.

When finalized and adopted, this Permit will supersede the current 2012 MS4 Permit (subsequently amended) and will dictate the activities and requirements of the Permittees, including SGVCOG member agencies, over the next permit cycle. The SGVCOG member agencies includes 30 incorporated cities, unincorporated communities in Los Angeles County Supervisorial Districts 1, 4, and 5, and three San Gabriel Valley Municipal Water Districts. The following summarizes the SGVCOG's comments in response to the *Tentative Regional Phase 1 MS4 Permit Order*, dated August 24, 2020.

The SGVCOG appreciates the opportunity to provide these comments and looks forward to continue supporting the LARWQCB to develop a Final Permit that includes provisions that are technically and financially feasible, while achieving environmental benefits within our communities.

The following summarizes the SGVCOG's key areas of concern on the Tentative Permit. Detailed comments and recommendations regarding specific sections in the Tentative Permit are provided in Appendix A.

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First District, LA County
Unincorporated Communities

Fourth District, LA County
Unincorporated Communities

Fifth District, LA County
Unincorporated Communities

SGV Water Districts

Summary

The following discussion highlights the SGVCOG's key areas of concern and proposed recommendations, including comments that were previously submitted and were not addressed in the current Tentative Permit. The proposed recommendations are bolded within each area of concern. These comments support the overall goal to improve water quality conditions in the Los Angeles region following a cost-effective and efficient approach. This goal can be achieved through the development of regulations and permit requirements that are aligned with real-world circumstances faced by the Permittees.

Timing of Permit Adoption and State Board Order Implications:

Concurrent with the Permit reissuance effort, it is important to consider the related State Water Resources Control Board (State Water Board) Tentative Order (*State of California State Water Resources Control Board Tentative Order WQ 2020-XXXX In the Matter of Review of Approval of Watershed Management Programs and an Enhanced Watershed Management Program Submitted Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175*) reviewing the LARWQCB's approval of various Watershed Management Programs (WMPs) and Enhanced WMPs (EWMPs) (State Water Board Order). The initial Order was released on December 6, 2019, and was revised based on comments received through early April and redistributed on September 4, 2020. This Order addresses specific requirements of the Permit that are important to consider as part of the Permit review. While some of the key issues identified by the State Water Board have already been integrated into the Tentative Permit, the State Water Board Order has not been finalized and further revisions of the Tentative Permit may be incorporated by the LARWQCB to comply with the State Water Board Order. The details of the State Water Board Order, which impact the Permit provisions and analyses Permittees will be required to complete, will not be finalized until its adoption.

Given the potential impacts of the State Water Board Order on the Permit and additional requirements for the Permittees implementing a WMP or EWMP, **it is assumed that the State Water Board Order will be finalized prior to the adoption of a new Permit.** This sequence is necessary to ensure the Permit would not have to be further revised to comply with the State Water Board Order, as well as to prevent a duplication of effort by the Permittees to address the new Permit and the State Water Board Order. For the same reason, the new Permit should also delay adoption as needed to ensure the proposed Basin Plan Amendment(s) that will modify TMDL final deadlines can be included as the revised dates in the new Permit. In addition, sufficient time (recommend at least 6 months) will be needed once the new Permit is formally adopted to allow the Permittees to incorporate the required updates through the Reasonable Assurance Analysis (RAA) revisions. **Depending on the timing of the State Water Board Order adoption and subsequent Permit adoption this may require extending the current deadline of June 30, 2021 for completion of the revised RAAs.** This extension is necessary to prevent an unnecessary and costly duplication of effort to ensure the appropriate analyses are included in the revised RAAs to satisfy regulatory requirements. The SGVCOG encourages the LARWQCB to support the sequence of events and the recommended time extension, as any other order or insufficient time between these regulatory adoptions and the required RAA revisions may result in inefficiencies and the need to go back and redo one of these efforts. The timing outlined above is to ensure the most appropriate policy is set in place and thorough, informative analyses, that fully satisfy the current tentative regulatory orders, are completed with as part of through the upcoming RAA revisions. The Permittees are already planning for the RAA revisions which are significant investments, ranging around \$75k – 350k each. If the State Water Board Order and resulting additions to the Permit require additional analyses as part of the RAA revisions, this will potentially double the cost and further emphasizes the importance of having sufficient time from Permit adoption to conduct the technical updates and additions.

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Furthermore, the Regional and State Boards' appeal of the decision in favor of the City of Duarte in the matter of *City of Duarte v. State Water Resources Control Board, et al.* (Case No. 30-2016-00833722) is still pending, with oral arguments having been conducted before the Court of Appeal on November 17, 2020. The findings and analysis associated with that final decision may further impact the Tentative Permit.

Fiscal Resources:

In general, the economic considerations included in the Tentative Permit are lacking in detail. This is an extremely important aspect to consider when assessing the Permittees ability to satisfy regulatory requirements. The Permittees will have the most success improving water quality conditions if we are able to focus the available resources on prioritized regulations with achievable goals, which requires a realistic discussion regarding the cost of compliance versus available funding.

Attachment F, the Fact Sheet in the Tentative Permit, includes economic considerations that estimate the 20-year cost of compliance at \$21.3 - \$31.4 Billion. However, the first method used to calculate this cost was based on TMDL Staff Reports that are now outdated and did not include the cost of implementing minimum control measures, monitoring costs, costs to address TMDLs if the Staff Report did not have a cost estimate, and only included the cost of addressing trash if there was a specific TMDL, not the overarching requirements of the statewide trash amendment. While the second method used the more recent cost estimates to fully implement the WMPs and EWMPs in the region, both methods still rely on the cost of stormwater management programs based on annual expenditures and budget data self-reported, which has not been consistent across the Permittees. Further, many of the cost estimates in the WMPs and EWMPs did not include additional costs such as acquiring property necessary for some structural BMPs, the full cost associated with operation and maintenance of BMPs, or the costs associated with implementation of the adaptive management program. Other cost estimates of compliance estimated in the past have been significantly higher. For example, the County of Los Angeles has recognized that the cost of complying could be as high as \$120 Billion. Likewise, a recent study on Stormwater Funding Options recognizes that the cost of complying could be as high as in the tens of Billions over the next 20 years. Further, the University of Southern California's Study of "An Economic Impact Evaluation of Proposed Storm Water Treatment for Los Angeles County" have estimated costs as high as \$283.9 Billion over 20 years.

The Fact Sheet also potentially overstates the available funding sources, with reference to Measures H, A, and M, that are not dedicated stormwater funds and Permittees have minimal or no access to use to address the requirements of the MS4 Permit. Other available funding sources are generally referenced, as well as a brief discussion on the potential impacts from COVID-19; however, a sufficient analysis to demonstrate that the cost of compliance is feasible based on available funding has not been completed. There will likely be circumstances where ~~Even prior to completing a sufficient financial analysis, it is clear~~ the cost estimates to fully implement the Permit are greater than the funding available. **The SGVCOG recommends that the Permit include a provision that allows Permittees to conduct a financial capability assessment that would be used to help determine an effective and feasible implementation schedule and associated compliance deadlines.**

In addition, it should be noted that the primary dedicated source of funding that most cities currently have for Permit compliance is through their upcoming Local Return through the Safe, Clean Water (SCW) Program. The SGVCOG member agencies do not anticipate any available funding beyond the SCW Program funds. In addition, the regional allocations to each watershed will be awarded competitively. The SGVCOG is concerned that the regional allocations coupled with the Local Return will not provide enough funding to complete all the projects required to comply with the Permit requirements, especially within the current designated timeframes. Given that Measure W is the only dedicated stormwater funding source, we recommend that the Permit have more explicit integration with the SCW Program, as discussed further in the comments below.

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Integration of the Safe, Clean Water Program:

The SCW Program and passage of Measure W was a major success for the Los Angeles Region and should be further leveraged knowing the available funds that can be used towards meaningful implementation and compliance. The SCW Program is the primary source of dedicated funding for the LA County Permittees. The municipal and regional programs are expected to significantly support implementation of Permittees' WMPs and implementation of these infrastructure projects will be the primary factor in achieving TMDL compliance. The SCW Program establishes multiple goals, including in addition to water quality benefits also water supply, cost efficiency, nature-based solutions, and community investment benefits. Therefore, the funds will not be exclusively spent on compliance, though this will be a significant portion, and additional time is required to ensure optimization across these benefits. To improve the certainty that actions taken will ultimately result in attainment of beneficial uses, the Permit should provide flexibility such as alternative compliance pathways and/or extended time to implement appropriate actions utilizing scientific advancements and best available information/data. Given the success securing this funding measure, which helps enable the commitment towards implementation of approved WMPs, **we recommend that the Permit integrate the fundamental aspects of the program to help align regulatory compliance with realistic and achievable implementation.** Initial recommendations to integrate the program include the following:

- **Allow WMPs to incorporate schedule adjustments to projects based on the Local Return and regional program support identified in the Stormwater Investment Plans (SIPs) through the adaptive management process.**
- Coordinate with the Los Angeles County Flood Control District and the Watershed Area Steering Committee Chairs to evaluate anticipated SCW Program funding in relation to planned and proposed infrastructure projects and TMDL deadlines.
- Provide credit to cities and agencies contributing funds through the regional program to projects outside their jurisdiction through extensions on their milestones. This recognizes the competitive aspect of the regional program, which should prioritize projects with the greatest watershed benefit but could result in certain jurisdictional projects being pushed to later fiscal years. This would not necessarily impact the number of projects to be implemented but provided flexibility to the schedule.
- Allow for extensions to compliance deadlines based on the available funding, with sufficient justification that the updated deadline can be met with the known funding.
- Tie permit compliance requirements to the availability of funding, and the Permittee's agreement that such requirements are appropriate.
- Align SCW Program reporting requirements in terms of format and schedule to satisfy the Permit required reporting.

If these recommendations are incorporated in the Permit, this will also help facilitate the selection of projects under the SCW Program that are best aligned with Permit compliance.

Better Define Compliance Attainment:

The compliance pathway through approved WMPs should clarify receiving credit for local pollutant load reductions with pre- and post-implementation monitoring versus an observed response in receiving waters. This is related to final compliance attainment. If an approved WMP is properly implemented and all project milestones and load reduction targets are met, but final WQBELs or RWLs are still exceeded, we recommend that the Permit provide coverage for the Permittees through deemed compliance to address through the adaptive management process, rather than being at risk of an immediate violation. The whole concept of the adaptive management process is to continue improving the program

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towards attainment of environmental objectives and this coverage will further encourage Permittees to fully embrace adaptive management. **In addition, we recommend establishing a clear policy and guidelines for Permittees to demonstrate that all work associated with prior and current milestones was completed. This will help assure all stakeholders that established milestones are being met and further justifies coverage under final compliance with the use of adaptive management as needed.**

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Regarding the alternative compliance pathway to address the 85th percentile, 24-hour event, it is important to recognize that volume capture may not provide a viable compliance strategy for certain pollutants (e.g., bacteria) and other types of water quality impairments (e.g., habitat-related impacts). **The Permit should allow flexibility in determining an alternative compliance pathway that can be used to demonstrate final compliance.** This flexibility will allow for greater compliance certainty and aligns with recent scientific studies and the development of innovative approaches and tools that can be used to enhance water quality improvement.

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Reporting:

The Tentative Permit reporting requirements are expanded from the existing 2012 MS4 Permit (**which the SGVCOG is concerned ignores the Court's findings with regards to the Cities of Duarte's and Gardena's lawsuits**) and will take significant time and resources to complete. The following recommendations aim to streamline these efforts so the information gathered provides meaningful feedback and available funding can be better spent on implementation efforts. **Additional reporting requirements include the annual report forms that require significant additional financial reporting, but do not provide adequate guidance. Additional clarity is needed regarding the LARWQCB's expectations.** The additional requirement for Permittees participating in a Coordinated Integrated Monitoring Program (CIMP) to submit a Monitoring Report twice a year doubles the annual reporting effort. This additional reporting would result in additional reporting costs for Permittees, which could more effectively be used to support implementation.

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We recommend updating the reporting periods to better align with the schedules in program plans, to increase the utility of the data collected to help guide implementation. The Permit should provide flexibility for the LARWQCB to coordinate with the Permittees on a more appropriate reporting schedule. In addition, individual Permittee reporting requirements should be limited to avoid redundant efforts where the watershed reports provide the overall progress of the program. Overall, the extensive cost to comply with the reporting requirements is not proportionate with the usefulness of these reports. Prior to much of the program's implementation (during planning and design phases), the reporting could be further spaced apart, then once implementation occurs an annual frequency may be more reasonable and useful.

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Moreover, including the reporting forms in the Permit does not allow flexibility to modify the forms as may be necessary or desired in the future. To allow for the opportunity to adjust reporting to better meet the needs of all stakeholders, **the SGVCOG recommends that the reporting forms be removed from the Permit.** Instead, the Permit should allow for the LARWQCB to amend and adopt the annual report forms on a regular basis to make improvements to these forms and the annual reporting process.

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Furthermore, the Permittees will be required to provide financial reporting to Los Angeles County regarding their use of SCW Program funds. **We encourage LARWQCB staff to closely coordinate with Los Angeles County in the development of financial forms to avoid redundant reporting.**

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Overall, the SGVCOG and its member cities have significant concerns with the current and increased reporting responsibilities and the financial burden associated with the more stringent requirements that could be better prioritized.

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Monitoring:

As stated above on the reporting requirements, the SGVCOGs recommendations aim to streamline the monitoring efforts so the data gathered still provides meaningful feedback and available funding can be better spent on implementation efforts. **The monitoring requirements could be better correlated with implementation status (e.g., monitor less frequently in the early stages of the program and then more frequently after watershed control measures have been more widely implemented).** Costs to Permittees to complete this monitoring in preliminary years where much of the program is still in the planning and design phases, could be better spent on implementation. **Monitoring could also be more strategically employed through a tiered approach that focuses first on downstream conditions, and only moves upstream if needed. Overall, given the extensive costs to comply and the disproportionate value in the data at this time, we are requesting a more critical look at these requirements.**

The additional aquatic toxicity monitoring requirements will require time to fully review. While the costs of monitoring these four freshwater species will be extremely high, without additional analysis, permittees will not be able to estimate the actual compliance costs. Since Permittees cannot evaluate the cost of compliance, the LARWQCB cannot evaluate the financial impacts of this new requirement. **We recommend that the Permit acknowledge this gap and provide a pathway for potential adaptations to the aquatic toxicity monitoring requirements once sufficient cost analyses are complete.**

In addition, we recommend that the Permit provides flexibility to streamline monitoring efforts where appropriate. The current monitoring requirements select a limited number of events to sample over the year for all identified pollutants, which is expensive for each sampling event. However, these are only a handful of events and only tell us so much about the overall conditions in the watershed. **A more streamlined and informative approach would be to sample more events but measure inexpensive proxies (supported by statistically significant data), such as sediment, in place of more expensive pollutant sampling and analysis.** This could be set up to be equivalent or less expensive than the current monitoring efforts and provide much more information to the Permittees and stakeholders on the state of the watershed. **Permittees should be able to justify reducing monitoring requirements for select constituents if they can demonstrate associated trends and progress in reducing pollutants.** The Permittee would measure these surrogate parameters, as appropriate, on a consistent basis, then include validation at selected times that would explicitly sample the specific pollutants of concern to further support the approach.

Compliance Schedules:

The Tentative Permit specifies that Permittees must comply with water-quality based effluent limitations immediately. Previously in the 2012 MS4 Permit, Permittees had 90 days to meet compliance deadlines. The SGVCOG has concerns that the requirement for immediate compliance ignores the Court's findings with regards to the Cities of Duarte's and Gardena's lawsuits. Regardless, as the LARWQCB develops the Permit, **a WMP being developed and implemented in good faith by the Permittees that is determined to be "inadequate" by the LARWQCB should be allowed a grace period to correct inadequacies.** This would still allow for the LARWQCB to address gross non-compliance while providing a path for WMPs with very minor and easily correctable flaws to continue addressing water quality goals.

Many of the original TMDLs have optimistic compliance schedules, which have previously been recognized as such by Board staff. There is flexibility in the Tentative Permit for Permittees to request extensions, in addition to the knowledge that the Board staff are currently working on a TMDL extension Basin Plan Amendment. **As an initial alternative, we recommend that the Board withhold adopting the new Permit until after the TMDL extension Basin Plan Amendment(s) have been approved and can be incorporated into the Permit. Alternatively, we recommend that the current schedules, at a minimum, recognize the anticipated TMDL deadline extensions from the Basin Plan Amendment(s) and ultimately the revised schedules will automatically be incorporated in the Final Permit. The**

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amendment is currently focused on specific TMDLs identified with near term deadlines. **We recommend the TMDL extension Basin Plan Amendment effort be extended to include other TMDLs where appropriate, particularly those with final deadlines prior to 2030.** Even with these extensions, there are remaining recommendations for better integration of the SCW Program regarding alignment of compliance schedules, which is further detailed in the comments above.

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The process of planning, designing, constructing, testing and operating projects to implement best management practices takes longer than five years. In addition, the SCW Program funding schedule could exceed this timeframe. Instead, **if compliance within five years is not feasible for a Permittee, then the Permittee should ~~instead~~ be able to demonstrate a plan towards compliance that it will implement as funding becomes available.**

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In addition, regarding the Bacteria TMDLs, the current timeframe for compliance is particularly unreasonable given recent scientific studies that indicate the need to reduce sources of human waste in order to meet recreational beneficial uses. Implementation is shifting to provide greater focus on source control efforts rather than structural project implementation and volume control which can be ineffective in reducing pathogens and recreational health risks. A longer schedule is needed to adapt current implementation programs, as is currently underway in the Upper Los Angeles River watershed with the Load Reduction Strategy Adaptation Plan.

Overall, this area of concern emphasizes that it is more important to implement the right programs and strategies to achieve the environmental and water quality goals driving the Permit than meeting a set milestone to complete a specified action. We do not want to rush forward in order to meet a set deadline that is unreasonable and potentially sacrifice a more thoughtful and effective approach. Some of the critical water quality objectives in older TMDLs are no longer aligned with the best available science. Examples of this include the Bacteria objectives that should be adjusted to focus more directly on allowable risk and move away from the use of Fecal Indicator Bacteria, as well as shifting towards the use of site-specific methods for metals (e.g., Biotic Ligand Model, Water Effect Ratio studies) to identify potential impacts to aquatic life. Necessary updates to water quality objectives can be used to clearly identify where beneficial uses (e.g. recreational use in relation to bacteria and aquatic life in relation to metals) are impaired and require action. The main recommendation is for flexibility in the Permit to incorporate new information and advancements and, when necessary, provide the appropriate additional time to successfully do so.

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Consistency Across Permits:

We recommend eliminating redundancy or contradictions across permits and ensure requirements for Phase I, Phase II, Industrial General Permit, Agricultural Order, etc., encourage collaboration across responsible parties. Water quality impairments are due to a number of influences which is why a watershed-wide approach is valuable to coordinate on the most cost-effective solutions. However, **the MS4 Permit should only contain requirements within the Permittees control and while collaboration is encouraged, compliance should not be reliant on it. Permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators. As currently drafted, the Tentative Permit purports to make the Phase I MS4 Permittees liable for the actions of other discharges, which is inappropriate. In addition, RAAs should be given flexibility to quantify Phase I MS4 responsibilities (e.g., load reductions) in order to encourage compliance ~~and~~ as well as promote shared responsibility with other Permittees.**

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Trash TMDL: The SGVCOG has significant concerns with the Trash Total Maximum Daily Load (TMDL) zero final effluent limitations which have long been challenged, including multiple lawsuits. Despite alternative compliance options, this TMDL is an inappropriate and unreasonable goal. The Los Angeles

~~Trash TMDLs were the first of their kind in California, with no precedent for an effluent limitation of zero. Though other Permits in the region now prohibit trash discharges, such as the San Diego Regional MS4 Permit along with the Statewide Trash Amendments, the language in the Trash TMDLs in the Los Angeles Region is more stringent with the zero effluent limitation. This has been acknowledged by regulators as demonstrated by the available compliance options to attain compliance with this objective. The existence of such an unachievable compliance objective that requires Permittees to spend significant time and resources on detracts from other more important environmental conditions that should be prioritized. We recommend, at a minimum, that the Permit incorporate direct reference to the available compliance pathways that satisfy the zero effluent limitation anywhere it is referenced.~~

Define Performance Metrics for Non-Structural Strategies and Concise, Useful Tracking:

The appropriate metrics for non-structural/non-modeled strategies still require further development to assess the effectiveness of these strategies and how to link to monitoring data. The assessments should be done in a clear and concise manner that provide meaningful feedback on progress and effectiveness to best support management decisions. **We recommend general guidelines be developed by a technical team, which will require time, to ensure consistency across Permittees.**

The current tracking requirements across Permittees programs for non-structural strategies are often time consuming and the data is not in a useful format to assess progress. **We recommend one consolidated tracking system that houses the information relevant to the Permit and helps succinctly assess effectiveness and streamlines Annual Reporting, providing more valuable information to the LARWQCB, as well as the Permittee to better manage its programs.**

Industrial General Permit (IGP) Training and Inspections:

The Tentative Permit clarified from the Working Proposal that training requirements can continue utilizing existing resources. However, **additional clarity is still requested on which employees are required to take the training, as the current language of “pertinent staff” is vague and would benefit from more specificity.** It is not clear whether Permittees would be exempt from this training if the inspection work is outsourced to contractors, a point which requires clarification. **The SGVCOG believes that the IGP training should only be required for those individuals who actually perform the inspections.**

Permit Contradictions:

The Board should clarify with a statement (in the appropriate section of the Permit) as to why Permittees in Reach 2 and Reach 3 of the Rio Hondo river are included for the Los Angeles River Metals TMDL. Permittees are listed within the approved TMDL and current MS4 permit; however, Reaches 2 and 3 are not included in the 303(d) lists. The SGVCOG is requesting an explanation and justification for this apparent contradiction.

Clear Language:

Tentative Permit language in places allows for multiple interpretations, in some cases out of line with the original intent. Specific comments are provided in Table A-1 where this has been identified. Overall, **recommend including additional clarity while maintaining flexibility to allow for scientific advancements and better information/data regarding protection of beneficial uses and MS4 responsibilities in the future.**

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Page 9

Sincerely,

Marisa Creter
Executive Director

Appendix A: Detailed Comments and Recommendations

In addition to the key areas of concern summarized in the comment letter, Table A-1 provides detailed comments on the Tentative Permit. Previous comments submitted by the SGVCOG on the Working Proposal that are still applicable in the updated Tentative Permit are included in Table A-1.

Table A-1. Comments on the Tentative Permit

| Tentative Permit Section; Page | Comment |
|--|--|
| Table 4; Page 7 | Consider setting the effective date as July 1, 2021 (rather than 50 days from adoption date) to align with the Reporting Period. |
| III. Discharge Prohibitions | |
| III.A; Page 12 | Specify this prohibition should not apply to any invasive animal or plant life. |
| III.B.3.a; Page 13 | Recommend adding discharges from recycled water systems as a conditionally exempt discharge. Definition of recycled water discharge could be: "Discharges from recycled water systems includes sources of flows from recycled water storage, supply and distribution systems (including flows from system failures), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and pump stations." |
| III.B.5.a.i; Page 14 | The requirement for all conditionally exempt non-stormwater discharges to notify the Permittee in advance is excessive given the range of exempt discharges (includes landscape irrigation, car washing, etc.). Recommend distinguish this requirement for specific discharge categories relative to the potential impacts. |
| III.B.5.b; Page 15 | For discharges greater than 100,000 gallons, recommend continue to coordinate with County/Water Purveyors releases of this size for safety reasons downstream. |
| III.B.8; Page 16 | Clarify if notifying the Board within 30 days is from the time when the discharge occurred or when the Permittee determines the discharge contributed to an exceedance. |
| III.B.9; Page 16 | Recommend modifying the end of this sentence to include: "...source of pollutants to receiving waters " |
| III.C.2.d.ii; Page 24 | Consider not including limit of time schedules throughout. Any proposed timeframe can be denied by the Regional Board but there may be some exceptions that warrant an extended period. |
| III.D; Page 25 | Please clarify why this prohibition for insecticides, fungicide and rodenticides are not applicable to products used for lawn and agricultural purposes. |
| IV. Effluent Limitations and Discharge Specifications | |
| IV.B.2.c.iv; Page 28 | Recommend adding language that Permittees will have the opportunity to revise a Watershed Management Program if it is initially found to be inadequate. A grace period should be provided to correct any inadequacies. |
| IV.B.3; Page 28 | Refer to area of concern regarding the zero trash effluent limitation for the Trash TMDLs. |

| Tentative Permit Section; Page | Comment |
|--|---|
| VI. Standard Provisions | |
| VI.C; Page 38 | Please clarify how the Regional Board will ensure that information collected in the Annual Reports will be utilized to complete fiscal analysis as required by the State Auditors. Will specific instructions be provided in the Annual Report to prevent any discrepancies between Permittees when financial data is provided. Please consider re-wording or expanding on this requirement. It can be interpreted that permittees must enumerate and describe all funds necessary to meet all requirements for implementation for the future year. There will undoubtedly be occasions when all funding sources anticipated for the upcoming year simply to do not meet what is estimated for full implementation. |
| VI.G.4.b; Page 40 | Requiring more frequent monitoring or reporting may not be considered a minor modification if it has significant implications to a Permittees cost of compliance and therefore likely impact a Permittees ability to comply with other requirements of the Permit. |
| VIII. Storm Water Management Program Minimum Control Measures | |
| VIII.A.3.b; Page 41 | If any of the requirements of this section (VIII.A.3.b) are redundant with training held by the Department of Pesticide Regulation or other agencies, it would be good to have such training referenced in this section as qualifying for satisfying the training requirement. |
| VIII.B.1.d-e; Page 42-43 | Regarding facilities/sites that require an NOI or NEC: Recommend allowing a Permittee to skip the process of one inspection and one written notice prior to referral. Once identified by the Permittee, it would seem efficacious to notify the Board. Versus waiting for a Permittee's attempts to compel IGP/CGP enrollment. So that Board staff can begin the process of compelling IGP/CGP coverage from the operator. In addition, for certain light industrial operations, IGP coverage can be a matter of interpretation of the SIC Manual. In these instance it would be best for the Regional Board to make the determination from the start. In addition, recommend setting up a recommended frequency for notification of potential IGP non-filers. Context: After the issuance of the 2012 LA/2014 LB MS4 Permits, the 2015 IGP added a large swath of light industries to its coverage. Many of these businesses are small in both size and operations and as such 1) are much more common than heavy industries, and 2) start and cease operations much more frequently than heavy industries. This means that Permittees may come across new potential non-filers on a regular basis, primarily through business license and MS4 NPDES inspections. Taking this into consideration, a regular frequency of notification may streamline the process for both Permittees and Regional Board staff. (For example, under the North Orange County MS4 NPDES Permit, there is a quarterly notification process in place.) |
| VIII.D.4.a; Page 45 | Recommend providing additional guidance on the metrics for measuring effectiveness of public education efforts, which otherwise could take many forms and vary significantly across Permittees. |
| VIII.E.2.a.ii.(c); Page 46 | Recommend providing a footnote that provides a hyperlink to the online database of such industrial facilities. |
| VIII.E.2.a.iii; Page 46 | Recommend listing the corresponding SIC codes for these facilities, and/or referring to the Attachment A definitions. Also for consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining these facilities in Attachment A using the SIC Code manual definition. |

| Tentative Permit Section; Page | Comment |
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| VIII.E.3; Page 47-48 | This Tentative Permit updated the Working Proposal section on Requirements for Industrial Sources (VIII.E.4) to include in the Business Assistance Program that Permittees could refer businesses to the LA Regional Water Quality Control Board or State Board for further technical assistance and also updated the inspection frequency for sites that do not have exposure to stormwater to every 5 years. Recommend the same updates be made to the Requirements for Commercial Sources (VIII.E.3). |
| VIII.E.5; Page 49 VIII.G.5.a; Page 67 VIII.G.6.b.ii.(c); Page 69 VIII.H.3.a; Page 71 | Recommend referencing a resource for Permittees to consider for applicable source control BMPs. (Such as the CASQA Handbooks.) |
| VIII.F.2.b; Page 54 | In addition to the specific projects listed, exemptions to hydromodification controls should include an option for Permittees to prove no adverse hydromodification effects occur to beneficial uses in the Natural Drainage System. |
| VIII.F.4-5; Page 58-66 | May consider integrating aspects of the Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees (VIII.F.4) to integrate options for Los Angeles County Permittees (VIII.F.5) and vice-versa. |
| VIII.G.4.b.ix; Page 67 | Recommend removing the post-construction BMP description as it is already logged through the tracking requirements of VIII.F.3.c.i. Also, consider moving the "comparison of pre-storm water runoff volume to post-construction runoff volume" tracking to VIII.F.3.c.i. |
| VIII.G.5.b; Page 68 | Currently construction sites are inspected once a month during rainy season, unless a follow-up inspection is required due to a deficiency. Please clarify what "inspect as needed" means. |
| VIII.H.5.a; Page 74 | If any of the requirements of VI.D.8.e.ii and VI.D.8.e.iii are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear which requirements are specific to the MS4 Permit. |
| VIII.H.5.b-c; Page 74-85 | If any of the requirements of VIII.H.5.b and VIII.H.5.c are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear which requirements are specific to the MS4 Permit. |
| VIII.I.8.b; Page 80 | Recommend exemption of tracking for discharges of negligible impact that do not enter a storm drain inlet. For example, the standard could be, "Tracking is not required for discharges of less than X gallons that do not reach a storm drain inlet." The reason for this requested exemption is that the administrative cost of this tracking outweighs the value of the data recorded. (The time could be better spent addressing other MS4 Permit requirements.) |
| VIII; Page 40-80 | For all minimum control measures note development of recommendations/guidance for appropriate metrics for measuring effectiveness will be needed. |
| IX. Watershed Management Programs | |

| Tentative Permit Section; Page | Comment |
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| IX.A; Page 81 | Please consider if Safe, Clean Water Program Stormwater Investment Plans (SIPs) are to be included into the Permit as mentioned by the County at the first workshop, how will those projects that remain unfunded be able to achieve compliance through alternative funding? |
| IX.A.4.d; Page 81 | Recommend updating to reflect that modifications to the strategies, control measures, and BMPs may also be based on information gathered outside of the MRP. |
| IX.A.4.e; Page 81 | Recommend providing more detailed description on the “appropriate opportunity for meaningful stakeholder and community input”. This could potentially take many forms and would be helpful to understand what the Board deems as appropriate. |
| IX.A.4.k; Page 82 | Strategies, control measures, and BMPs should be designed to achieve applicable WQBELs and RWLs, which can be demonstrated through an RAA. Reference to retaining the volume of the 85th percentile, 24-hour storm event should be reserved for later discussion that this option provides deemed-compliance for the associated drainage area without requiring an RAA. In many cases, building such control measures is infeasible in most areas and exceeds necessary controls to attain the water quality objectives, where costs could have been better spent in other areas to address the variable and spatial extent of WQBELs and RWLs. Increasing project size to capture the 85th percentile, 24-hour storm event may result in the misapplication of limited funding resources. Watershed Management is complex and requires optimum target investments and appropriate water quality standards. |
| IX.B.4.a; Page 83 | Recommend also considering the severity of impaired beneficial uses and the relative level of exceedance of WQBELs and Receiving Water Limitations when sequencing the water quality priorities for TMDLs, rather than solely based on the compliance schedules. |
| IX.B.5.b; Page 84 | Recommend adding back in the retrofitting of existing developed areas to the list of potential control measures. |
| IX.B.5.b.i.(a); Page 84 | Recommended removing “Vegetated” before nature-based solutions. There are nature-based solutions that aim to restore/promote natural processes that do not necessarily rely on vegetation. |
| IX.B.5.b.ii.(b); Page 84 | Please clarify if Permittees are required to adopt plastic bag, straw and styrofoam bans as proposed as non-structural controls regarding human source management. |
| IX.B.7.a; Page 85 | Requiring legal authority to implement the identified control measures could potentially limit beneficial collaboration across parties that are not direct Permittees. |
| IX.B.7.g; Page 86 | The RAA will be dependent upon the availability of data. Recommend some language that acknowledges this limitation. |
| IX.B.7.g.ii; Page 86 | Recommend noting that the calibration of models should also be consistent with the applicable critical conditions for the pollutants of concern. |
| IX.B.7.g.iii; Page 86 | Given the extent of available data, recommend noting that validation should be performed, if relevant independent data not required for calibration are available. |

| Tentative Permit Section; Page | Comment |
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| IX.B.7.g.iv; Page 86 | Recommend providing additional guidance/recommendations on the quantitative reasoning required to demonstrate a WBPC being addressed by the limiting pollutant approach. |
| IX.B.7.g.v; Page 86 | Please clarify if the use of a modified WMMS model calibrated for a particular watershed still satisfies the QA/QC requirements. |
| IX.B.7.g.vi; Page 86 | Recommend noting that the assessment of control measure performance will be an iterative process as more of this type of data is gathered in the WMA as control measures are implemented. |
| IX.C.3; Page 87 | Permittees should be able to request an extension of final compliance deadlines with TMDLs. |
| IX.E.1.c; Page 88 | Consideration of the achievement of requirements for storm water volume addressed in adaptive management should include an “as applicable”, given not all WMPs have set targets based on the volume addressed. |
| IX.E.1.e; Page 88 | Recommend reassessment of sources of pollutants not be limited to MS4 discharges, as modifications may also be warranted if significant sources outside of the MS4 are identified to be impacting receiving waters. |
| IX.E.1; Page 87-88 | Recommend including re-evaluation of identified control measures in the program and costs of implementation. |
| IX.E.4.f; Page 88 | Recommend adding a note that comparison of control measures completed to date with control measures projected to be completed to date pursuant to the WMP should include additional control measures implemented outside of the existing WMP |
| IX.E.5; Page 89 | Please consider the impacts of additional costs incurred when implementing measures as part of adaptive management are considered and the time to secure such funding. |
| X. Compliance Determination for WQBELs and Receiving Water Limitations | |
| X.B.1.b; Page 94 | Necessary deviations from an approved WMP may justify adjustments to the final deadlines for project completion or program implementation, under approval of the Executive Officer and appropriately incorporated in the WMP through the adaptive management process. Recommend removing this circumstance from allowing minor deviations in an approved WMP. |
| XI. Enforcement | |
| XI.B.1; Page 99 | Recommend where reference the zero trash effluent limitation to include a qualifying statement with the acceptable compliance pathways that result in attainment of this object. |
| Attachment A - Definitions | |
| Att.A - Illicit Discharge; Page A-9 | Recommend clarifying definition to answer the question: Does an illicit discharge include a discharge of pollutants in storm water that has not been reduced to the maximum extent practicable? |
| Att.A - Non-Storm Water Discharge; Page A-13 | Recommend clarifying definition to answer the question: Do non-storm water discharges include discharges of pollutants in storm water that have not been reduced to the maximum extent practicable? |

| Tentative Permit Section; Page | Comment |
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| Att.A – Restaurant; Page A-16 | For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining restaurants by the SIC Code manual: "Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry." |
| Att.A - Retail Gasoline Outlet; Page A-16 | For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend referring to Retail Gasoline Outlets as Gasoline Service Stations and defining by the SIC Code manual: "Establishments primarily engaged in selling gasoline and lubricating oils. These establishments frequently sell other merchandise, such as tires, batteries, and other automobile parts, or perform minor repair work. Gasoline stations combined with other activities, such as grocery stores, convenience stores, or carwashes, are classified according to the primary activity." |
| Att.A – Vehicle Maintenance/Material Storage Facilities/Corporation Yards; Page A-20 | Note Corporate Yards are referred to as a Public Works Yard in Section VI.D.8.b Table 11. Recommend using one term. |
| Attachment E – Monitoring and Reporting Program | |
| Att.E.II.H.8; Page E-5 | Requiring to incorporate new MDLs in the monitoring program should also consider the financial burden of implementing (in addition to analytical methods improving and becoming more environmentally relevant) |
| Att.E.V.A.2.a.ii; Page E-17 | The new provision for subsequent wet weather events could be interpreted to modify the current provision to target wet weather events greater than 0.25 inches of rain to greater than 0.1 inches of rain. If this is the case, the new minimum wet weather target would increase the risk of a false start, decrease the amount of runoff represented in the sample, and cause other event pacing issues. Recommend that the minimum wet weather target remain the same. |
| Att.E.V.A.3; Page E-18 | The new requirement to conduct receiving water wet weather monitoring within 6 hours of stormwater outfall-based monitoring may be infeasible for marine receiving water sites. Please provide guidance language for wet-weather monitoring at marine receiving water sites. |
| Att.E.VI.A.5.b.i.(a); Page E-25 | The new requirement for flow-weighted composite samples to have a minimum of 3 samples per hour that are separate by at least 15 minutes is infeasible due to rainfall variability. Generally, as flow increases, the sampling frequency increases. The beginning and ending of an event can sample at a rate less than three times per hour, and middle of an event can sample at a rate less than once every 15 minutes. Recommend that the minimum samples and rate serve more as guidelines and targets rates rather than requirements. |
| Att.E.IX.H.1-3; Page E-30 – E-31 | The requirement to test four freshwater species will add substantial labor, cost and volume requirements for the first year of monitoring. Increased volume requirements will make it more difficult to collect sufficient volume of water through flow compositing. This will also likely result in adjacent watersheds evaluating different sensitive species and result in a lack of consistency with aquatic toxicity monitoring. Unclear how results of the test would be assessed if not consistent across test species. Please also consider the proposed Urban Pesticide Amendments' Statewide Coordinated Monitoring Program. Recommend including some language in the Permit to advise Permittees on the |

| Tentative Permit Section; Page | Comment |
|---|---|
| | Board's stance on joining the Urban Pesticide Amendment and what the process would be for opting into this program. Please provide reasoning for the requirement to test four freshwater species. |
| Att.E.XIV.B; Page E-37 | The new requirement for semi-annual monitoring reports doubles the annual reporting effort, which could potentially be better spent on implementation efforts. |
| Attachment F – Fact Sheet | |
| Att.F.III.K; Page F-93 | If Permittees were to consider climate change offsets in modeling or with BMPs, this would require changes to the WMPs through Adaptive Management. When would this be required by if included in the Permit? This would require Permittees to incur additional costs for analysis and modeling. Has the LARWQCB/SWB conducted a cost-benefit analysis to determine feasibility of considering climate change offsets? |
| Att.F.XIII; Page F-283 | What is considered "appropriate"? |
| Attachment H - Annual Report Forms | |
| Att.H | Please clarify what is requested for cost for the Public Agency activities. This is where everyone reports differently with no clear format. |
| Att.H | Recommend that the Annual Report form not be included as an attachment. We anticipate continued improvements in the Annual Reporting process in the coming years, with a focus on reporting on key performance indicators and providing meaningful information. With an Annual Report form written into the Permit, this would prevent reporting improvements for a minimum of 5 years. (It seems unlikely that the Permit would be reopened for moderate improvements to the Annual Report forms.) |
| Att.H | Recommend considering any and all methods of avoiding redundancies. For example, consider maintaining WMP level reporting, enhanced by individual City-specific details. |

DATE: November 10, 2020

TO: Water Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **2021 LEGISLATIVE PRIORITIES**

RECOMMENDED ACTION

Recommend proposed 2021 Legislative Priorities to the Governing Board for approval.

BACKGROUND

The SGVCOG Governing Board annually adopts a comprehensive legislative platform consistent with the Strategic Plan and in furtherance of the interests of the region and our member agencies. The platform helps guide and inform the legislative, policy, and programmatic actions and positions taken by the SGVCOG over the course of the calendar year.

The proposed legislative priorities build upon those adopted in previous years. To that end, items that have been updated from the 2020 Legislative Priorities are italicized.

2021 WATER LEGISLATIVE PRIORITIES

State:

- Continue to advocate and/or pursue legislative solutions for adopting financial capability assessment guidelines in the issuance of MS4 permits that provide an economic analysis of the costs and benefits of water quality improvements.
- Continue to advocate for the establishment of reasonable timelines for compliance with new drinking water standards.
- Advocate for water rights assignment to MS4 agencies for new infiltrated water
- Advocate for any needed legislative solutions for innovative projects that allow cities to implement MS4 Permit projects.
- Advocate for funding sources that provide on-going funding for the implementation of stormwater projects.
- Pursue legislative fixes that address the challenges that cities face in implementing SB 205 (Hertzberg), including updating the Standard Industrial Classification (SIC) codes.

Local:

- Advocate for Measure W funding for cities' MS4 projects.
- Advocate for reasonable financial analysis to be incorporated into 2020 NPDES MS4 Permit that allows cities to comply with the Permit without facing a significant unfunded burden.

REPORT

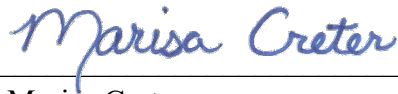
- *Advocate for enhancements to the implementation of the Safe Clean Water Program to ensure that the funding is effectively and efficiently used for projects that focus on ensuring clean water for all residents and cities' compliance with the MS4 Permit.*
- *Advocate for the Safe Clean Water Program to be integrated with the successor NPDES MS4 Permit.*
- *Advocate for regional projects that provide water quality, supply, and resiliency benefits to the San Gabriel Valley.*

Prepared by: _____



Samantha Matthews
Management Analyst

Approved by: _____



Marisa Creter
Executive Director

REPORT

DATE: November 10, 2020

TO: Water Policy Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **STATE WATER RESOURCES CONTROL BOARD ORDER**

RECOMMENDED ACTION

For information only.

BACKGROUND

On December 6, 2019, the State Water Resources Control Board (State Board) released a Draft Order in the Matter of Review of “Approval of Watershed Management Programs and an Enhanced Watershed Management Program Submitted Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175.” The Draft Order addresses the petitions that the State Board received challenging the Executive Officer of the Los Angeles Regional Water Quality Control Board’s (Regional Board) approval of nine watershed management plans (WMPs) and one enhanced watershed management plan (EWMP). The Draft Order provides the State Board’s response to these petitions, in which it finds that there are deficiencies in the WMPs and the EWMP and outlines the requirements for these WMPs and EWMP to undertake in order to comply the 2012 Municipal Separate Storm Sewer (MS4) Permit.

The Water Policy Committee and TAC expressed concerns regarding the State Board’s Draft Order and its potential implications for Permittees and directed staff to submit the comment letter to the State Board. The draft letter is included as Attachment A. Key concerns raised in that letter included the bacteria TMDL level of analysis, existing mechanisms for adaptive management in the permit, inconsistency with the trial court’s decision in *City of Duarte v. State Water Resources Control Board*, timelines, lack of due process, and the timing of the order.

SECOND PROPOSED ORDER

On September 4, 2020, the State Board released a second proposed order, which makes revisions to the Draft Order. A primary technical concern that remains in the second order is related to the adaptive management process and the Reasonable Assurance Analysis (RAA). The second proposed order indicates that the existing RAA strategy and fundamental basis of using the limiting pollutant for RAA is flawed. Developing an alternative methodology would place a financial burden on cities. In addition, the second proposed order continues to include the initial concerns with the bacterial TMDL and the inconsistencies with the Duarte litigation.

The second proposed order, “comparison document,” and transmittal letter can be found here: www.waterboards.ca.gov/public_notices/petitions/water_quality/a2386_losangeles_wmp.html


PUBLIC WORKSHOP

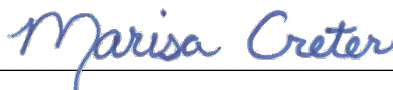
On October 6, 2020, the State Board held a public workshop to solicit comments on the second proposed order. State Board staff noted that the Board supports the limiting pollutant strategy, but staff argued that this strategy was insufficiently justified in the plans. Both SGVCOG and Regional Board staff provided public comment at the workshop that noted the second proposed order appears to suggest that the fundamental basis of using the limiting pollutant for the RAA is flawed, and requested that these references be removed and that the State Board confirm that this strategy is accepted.

FINAL PROPOSED ORDER & PUBLIC MEETING

On Wednesday, November 4, the State Board released the final proposed Draft Order. The final proposed order, a “comparison document,” and the transmittal letter may be found on the SGVCOG website along with this meeting agenda notice.

On Tuesday, November 17, 2020, the State Board will meet to consider adoption of the final proposed order.

Prepared by: 
Samantha Matthews
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SGVCOG Comment Letter on Draft Order



March 19, 2020

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
P.O. Box 100
Sacramento, CA 95812-0100

RE: COMMENTS ON A-2386, A-2477, A-2508 PROPOSED ORDER

Dear Ms. Townsend:

This submittal is being made on behalf of the San Gabriel Valley Council of Governments (SGVCOG) and its member agencies. SGVCOG is submitting these "Comments on A-2386, A-2477, A-2508 Proposed Order," which was released on December 6, 2019, and subsequently revised and released on December 10, 2019. The SGVCOG appreciates this opportunity to provide comments on the Proposed Order.

Specifically, the SGVCOG would like to highlight the following concerns:

- **Bacteria TMDL:** In the Draft Order, the State Board expresses concern with the level of analysis that is shown by Permittees with regards to compliance with the Bacteria TMDL. The SGVCOG recognizes the need for more data with regard to the Bacteria TMDL, so the SGVCOG is seeking Safe Clean Water funding for two technical studies with regard to the Bacteria TMDL: the Upper Los Angeles River (ULAR) Load Reduction Strategy (LRS) adaptation plan – which is being completed to address the significant challenges that the ULAR Group has faced in complying with its Bacteria TMDL – and the region-wide study to support protection of human health through targeted reduction of bacteriological pollution – which is looking to identify opportunities for more targeted and cost-effective mechanisms of compliance with the Bacteria TMDL. As such, the work that the State Board has proposed in the Draft Order is already underway under the existing terms of the existing MS4 Permit.
- **Existing Mechanisms for Adaptive Management in the Permit:** The 2012 MS4 Permit has existing mechanisms for Permittees to utilize an adaptive management process to revise their WMPs. Many WMP groups in the San Gabriel Valley have done that and, as referenced in the Draft Order, four of the contested WMPs utilized the adaptive management process in 2017. Given that WMP groups already can and do use an adaptive management process with the Regional Board to ensure compliance with the MS4 Permit, there is no need for the State Board's Draft Order to duplicate and/or override this process.
- **Timelines:** The SGVCOG has significant concerns with timelines included within the Draft Order. Permittees are already required to re-run their reasonable assurance analysis (RAA) in 2021. To run the RAA in 2020 and again in 2021 would be a costly proposition and a hugely ineffective use of Permittees' financial resources. Permittees want to direct as much of their funding as possible towards the

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implementation of the projects and programs that are contained within their WMPs for which an RAA has already been completed.

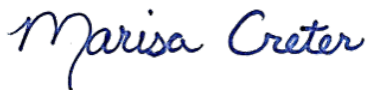
- ***Inconsistency with the trial court's decision in City of Duarte v. State Water Resources Control Board (Case No. 30-26016-00833614) (the "Duarte Case"):*** The City of Duarte – a member agency of the San Gabriel Valley Council of Governments – had challenged the numeric effluent limitations (NELs) included in the 2012 MS4 Permit on the basis that the NELs were not required by federal law and, as such, the Regional Board was required to consider, among other factors, the cost of compliance and whether those terms were reasonably achievable, which the Regional Board failed to do. The trial court agreed with Duarte's argument and ordered the NEL-related provisions to be set aside by the Regional Board. However, the State Board's Draft Order does not acknowledge this holding. Additionally, the State Board's Draft Order's discussion of California Water Code section 13241 wholly ignores the trial court's ruling as well. (See Amended Proposed Order pp. 19-23.) For example, the State Board claims that it and the Regional Board considered the costs of complying with the requirements of the 2012 MS4 Permit, even though the trial court expressly found to the contrary by noting that the Regional Board only considered the costs of complying with the *prior* MS4 permit. (See Attachment A hereto.) Furthermore, the State Board's citation to authorities in footnotes 79-81 to support the argument that the Regional Board adequately considered costs is legally incorrect. Specifically, the cases cited therein (*City of Arcadia v. State Water Resources Control Board* (2006) 135 Cal.App.4th 1392; *California Association of Sanitation Agencies v. State Water Resources Control Board* (2008) Cal.App.4th 1438, *San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Board* (2010) 183 Cal.App.4th 1110), all address challenges to legislative acts by the State and Regional Boards, not a quasi-adjudicative act like the adoption of the 2012 MS4 Permit, which is subject to a much less deferential standard of review under Code of Civil Procedure § 1094.5. To simply ignore this holding strikes us as a strategic attempt to undermine the *Duarte Case*; to hold the Permittees to those NEL-related terms is both inappropriate and an abuse of discretion.
- ***The State Board's Draft Order runs afoul of the Court of Appeal's order granting the Water Boards' writ of supersedeas.*** The State Board's Draft Order does not adequately describe the actions of the Fourth District Court of Appeal in the appeal of the *Duarte Case*. (See Draft Order, n. 2, pp. 1-2.) While the Court of Appeal granted the Water Boards' petition for writ of supersedeas, it also specifically stated that the Water Boards should *not* enforce the NEL-terms during the pendency of that appeal, and if the Water Boards were to take such action, authorized the affected permittees to seek relief directly from the Court of Appeal. (See Attachment B, hereto.) The requirements of the State Board's Draft Order are clearly an attempt to force compliance with the NELs and NEL-related terms. As such, adopting the Draft Order would be inappropriate and would likely invite judicial intervention from the Court of Appeal.
- ***Lack of Due Process.*** The Draft Order purports to require the Regional Board to reconsider previously approved, unchallenged WMPs and EWMPs for groups that were not subject to a petition. By issuing a draft order that purports to impact

Permittees that were not give any prior notice of a challenge to their programs, the State Board has denied the Permittees due process as a matter of law.

- ***Draft Order Timing:*** Over the last seven years, Permittees in the San Gabriel Valley – as well as across the region – have worked diligently to attempt to comply with the 2012 MS4 Permit. Watershed area groups have submitted and received conditional approval for these WMPs, have used the Permit’s adaptative management process to revise their WMPs as necessary, and have begun implementing projects. In December 2019, the Los Angeles Regional Water Quality Control Board (Regional Board) released the “Staff Working Proposal of the Regional Phase 1 Municipal Separate Storm Sewer System (MS4) Permit for initial stakeholder review and comment. The Regional Board anticipates releasing a draft proposal, for public comment, in the spring of 2020, with the final approval of a Permit later this year. To release an Order related to the 2012 MS4 Permit – when the development of the new MS4 Permit and the Water Boards’ appeal of the *Duarte Case* (and the related Gardena Case) are underway – is short-sighted and invites procedural and legal roadblocks that can be easily avoided if the State Board delayed issuance of the order. Indeed, the timing of the order undermines the ability and good faith of Permittees to effectively complete the technical work and projects necessary to meet the shared goal of MS4 permit compliance. Similarly, should the decision in the *Duarte Case* stand on appeal, the entire order may become moot. Lastly, the timing of the order serves to confuse and complicate the process of approving a new MS4 Permit and, moreover, potentially subverts the public review and approval process delegated to the Regional Board that is already underway.

In light of the foregoing, the SGVCOG respectfully requests that the State Board not issue the Draft Order at all in light of the substantive and procedural deficiencies outlined above. If the State Board were to decide to issue the Draft Order, the SGVCOG respectfully requests that the State Board wait until after the appeal of the *Duarte Case* has been decided, and to amend the Draft Order to narrow the parties that are impacted by the order, and to accurately account for what occurred and likely will occur in the *Duarte Case* (and the related Gardena Case). We appreciate the opportunity to provide comments on this Draft Order. Should you have any questions, do not hesitate to contact my staff at (626) 457-1800.

Best,



Marisa Creter
Executive Director

REPORT

DATE: November 10, 2020

TO: Water Policy Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **SAFE CLEAN WATER PROGRAM UPDATES**

RECOMMENDED ACTION

For information only.

PROGRAM AND WASC UPDATES

On October 13, 2020, the Los Angeles County Board of Supervisors approved the FY 2020-21 Recommended Regional Program Stormwater Investments Plans (SIPs). Transfer Agreements for the Infrastructure Program and Scientific Studies are to be prepared and distributed to the recipients, and Technical Resources Program recipients will be contacted by the District.

Each Municipality must submit an Annual Plan and execute a fund Transfer Agreement with the District to receive their portion of the Municipal Program revenue. The District requests that each city include a PDF copy of the resolution or other authorizations to execute the agreement, from their respective City Councils or other authorized party, along with the signed agreement.

The Regional Oversight Committee (ROC) reconvened on October 29, 2020 to provide input on District staff's draft framework for Fiscal Year 2021-2022 Stormwater Investment Plan Programming Guidelines (Attachment A). The Upper San Gabriel River Watershed Area Steering Committee (WASC) reconvened on October 28, 2020 and the Upper Los Angeles River WASC will reconvene on November 4, 2020 to select Chairs, send completed feasibility studies to Scoring Committee for consideration, and begin development of the FY 2021-22 SIPs. The next meeting date of the Rio Hondo WASC is to be determined. Staff and Water TAC Chair will provide an update on the ROC and WASCs at this meeting.

UPCOMING MEETINGS

- Regional Oversight Committee – TBD
- Scoring Committee – Wednesday, November 4, 12:30 – 2:30 pm and Tuesday, December 1, 2020, 9:00 am – 12:00 pm
- Upper Los Angeles River WASC – Wednesday, November 4, 2:00 – 4:00 pm and Wednesday, December 2, 2:00 – 4:00 pm
- Upper San Gabriel River WASC – TBD
- Rio Hondo WASC – TBD

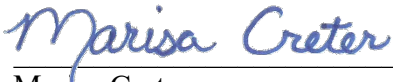
REPORT

Prepared by:



Samantha Matthews
Management Analyst

Approved by:



Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Draft Framework for Fiscal Year 2021-2022 Stormwater Investment Plan Programming Guidelines

DATE: October 19, 2020

TO: Regional Oversight Committee
Safe, Clean Water Program

SUBJECT: ROC Input for potential FY 2021-2022 SIP Programming Guidelines

PREPARED BY: Matthew Frary
LA County Flood Control District

Following the first implementation year of the Safe, Clean Water Program (SCWP, or Program), the District and many stakeholders recognized that additional guidance on certain elements may help applicants develop projects that better align with the goals of the Program, as well as assist governance committees in more consistently carrying out their roles and responsibilities.

District staff currently intend to produce FY21-22 SIP Programming Guidelines to clarify certain elements of the Program. Some of the guidance will relate to the Regional Program alone, but some is meaningful to both the Regional and Municipal programs. The five primary elements of clarification are anticipated to be:

1. Programming Partial Funding
2. Applying consistent Disadvantaged Community Benefits program policies
3. Strengthening Community Engagement and Support
4. Clarifying prioritization of Nature-Based Solutions
5. Understanding Water Supply Benefits

The Regional Oversight Committee (ROC) is an independent body of subject matter experts responsible for ensuring SCWP goals are met by providing progress reports and recommendations to the elected governing body of the District (the Board of Supervisors). Given this important role in the Program, the District is seeking formal input in this public forum before drafting any anticipated guidance documents.

The additional Program guidance documents are expected to be informed by the Ordinances and adopted Program guidelines, input from the ROC, and formal and informal stakeholder engagement by District staff. Drafts of the guidance documents are expected to be distributed for public review in late 2020, revised after consideration of all comments, and then adopted by the District for use by all program participants in 2021.

To facilitate input, the District has compiled two items for reference:

- The attached draft framework, which is based on input received to date and intended to help confirm the ‘problem statement’ for each of the five elements. It also includes potential resolutions that serve merely as conversation starters.
- Appendices with existing Ordinance and guidance language for each element.

Please review and be prepared to provide input at the October 29th ROC meeting.

Safe, Clean Water Program

DRAFT Framework for potential Fiscal Year 2021-2022
Stormwater Investment Plan Programming Guidelines



1 Introduction

District staff currently intend to produce FY21-22 SIP Programming Guidelines to clarify certain elements of the Program. Some of the guidance will relate to the Regional Program alone, but some is meaningful to both the Regional and Municipal programs. The five primary elements of clarification are anticipated to be:

1. Programming partial funding
2. Applying consistent Disadvantaged Community Benefits program policies
3. Strengthening community engagement and support
4. Clarifying prioritization of Nature-Based Solutions
5. Understanding Water Supply Benefits

Included below for each element is an overview of the problem to-date, what the updated guidelines are currently expected to address, and examples of potential resolutions being considered. Potential resolutions identified are only to help initiate further input and discussion and represent early ideas to potential develop further based on input. Each potential resolution has been developed based on prior conversations with the Regional Oversight Committee, Watershed Area Steering Committees, project developers, cities, NGOs, and other stakeholders. These are not intended to be exhaustive lists of all options under consideration, but rather some ideas to generate further discussion and refinement.

The District will also discuss next steps with appropriate parties, including coordination with the Scoring Committee as applicable. It is possible that resolution for one or all of these may ultimately not fully be developed for inclusion in FY21-22 SIP considerations. This important, and likely iterative, process will be best informed with the continued involvement of all interested stakeholders.

To aid in review of these concepts, language from the existing Program ordinance and guidance documents is included via appendices to this document.

1 Programming partial funding

Overview of the Problem

Certain stakeholders, applicants, and WASC members felt constrained by the inability of the WASC to recommend and program partial funding for a submitted project in the Regional Program. While LACFCD Code Section 18.07.B.2.g states that activities selected for inclusion in a Stormwater Investment Plan should typically be recommended to receive funding for their total estimated cost or requested need, it's understood that there are cases that may warrant flexibility. It is also important to note that unlike most grant programs, SCWP funds are provided in advance, and recommendations in the SIPs are linked to a complex scoring process. Changing funding amounts – especially if it impacts the scope of work, total cost, or benefits provided – could impact the project score and therefore its eligibility or competitiveness in the program.

Safe, Clean Water Program

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Additional guidance for this element is currently anticipated to address:

1. How a WASC can recommend allocating partial funding to a project in a SIP
2. Implications and limitations for the various potential scenarios

Potential Resolutions

- Develop a process for requesting and/or recommending the programming of partial funding
- Create a form for Project applicants to identify their ability and interest in receiving partial funding if full funding is not possible, not likely, and/or not desired by the WASC. This process could be initiated by the WASC or by the Project applicant, but both parties would need to deem the circumstance applicable and appropriate for partial funding.
- Require a project that requests partial funding to achieve the submitted scope and benefits using funding from another source (including, but not limited to a cost share partner, grants, or SCW Municipal Program funds) and/or otherwise be programmed in such a way that re-scoring by the Scoring Committee would still not be required.
 - This could be assumed for at least FY21-22 SIPs, if not longer, as the complexity of the SCWP may prohibit a timely process for re-scoring with the required annual cycle.
- If a partial funding request results in phasing of a project (e.g. Design Only; not intended for phased construction), the phased project could still be scored based on the full proposed Project.
 - Note: Funding for future phases is not guaranteed.

2 Applying consistent Disadvantaged Community Benefit policies

Overview of the Problem

Complying with the disadvantaged community benefit policy in the Program is complex, and asserting what benefits accrue to which communities is not easily quantified.

In the SCWP (LACFCD Code Section 16.03.I), a disadvantaged community benefit is defined as “a Water Quality Benefit, Water Supply Benefit, and/or Community Investment Benefit located in a DAC **OR** providing benefits directly to a DAC population.” The Program defines the boundaries of disadvantaged communities using census block data as defined in Water Code section 79505.5.

In Round 1, WASCs struggled to agree about which projects provided a benefit to one or many disadvantaged communities, including confusion about whether a project needed to be located within a disadvantaged community to claim the benefit, and which project attributes would be considered “beneficial.” For those projects that WASCs agreed provided disadvantaged community benefits, there was additional confusion about when and how to quantify that benefit relative to the 110% investment requirement in LACFCD Code Section 18.07.B.2.c: “Funding for ***Projects that provide DAC Benefits*** shall not be less than one hundred and ten percent (110%) of the ratio of the DAC population to the total population in each Watershed Area.”

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To achieve consistency across the Watershed Areas in how this DAC Benefits are interpreted and calculated, the SIP Guidelines are anticipated to include additional clarification about the following issues:

1. Determining which project benefits meet the criteria for “DAC Benefit” based on location and benefit type.
2. Assessing verification of Disadvantaged Community Benefit with either quantitative or qualitative tools, or both.
3. Calculating the Disadvantaged Community Benefit value in the SIP for compliance with the 110% requirement.

Please note that the Projects Module has already been updated to collect more detailed justifications for claimed Disadvantaged Community Benefits to inform discussions and recommendations by each of the governance committees.

Potential Resolutions

Disadvantaged Community Benefit criteria:

- Projects located within a disadvantaged community would count as providing a DAC Benefit if the Project applicant verifies the Water Quality, Water Supply, and/or Community Investment benefits claimed, as described in the next section below.
- Those projects located outside of a disadvantaged community can provide benefits to that community in the form of improved water quality, community investments, and/or increased water supply (as applicable). These benefits can be realized both upstream and downstream of the disadvantaged community but should be verified, as described in the next section below.

Verifying the DAC Benefit:

Project developers can demonstrate (and governance committees determine) that a project provides a DAC Benefit using a quantitative measure, qualitative measure, or a combination thereof.

- **Option 1:** Quantitative Demonstration of DAC Benefit: A project developer can demonstrate Water Quality, Water Supply and/or Community Investment benefits within or benefitting a disadvantaged community using quantitative tools like those embedded in the scoring matrix.
- **Option 2:** Qualitative Demonstration of DAC Benefit: A Project Developer can demonstrate that a Project provides either a Community Investment, Water Quality, or Water Supply Benefit by soliciting and receiving letters from the community that include specific support for those benefits. “Support” would be demonstrated by a representative body of the community, like a neighborhood council, city representative, community group, or other body.
- **Option 3:** Combination of Options 1 and 2, or another alternative altogether.

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Quantification of DAC Benefit as Part of the 110%:

- Option 1: Scaled DAC Benefit calculation.** The value of a Project that provides a DAC Benefit can be scaled based on identified value criteria. In conjunction with the options in the “Verifying the DAC Benefit” section above, some examples of such a criteria include relative contribution of DAC Benefit, value of DAC Benefit compared to project as a whole, level of demonstrated community support, specified values or percentages for certain benefits (Supply, Quality, Community Investment), or some other evaluative tool. Initial concept ideas could be based on or linked to the Community Support score or established within a Good / Better / Best framework (potentially with both quantitative and qualitative considerations).
- Option 2: Full value of “DAC Benefit Projects” counts toward 110% (like Round 1).** Any project that provides one or more of a verified Water Supply, Water Quality, or Community Investment Benefit is considered a “DAC Benefit Project” and, in accordance with 18.07.B.2.c, could be counted in its full value toward the 110% for that Watershed Area. For any DAC Benefit Project receiving partial funding, the full value of the partial funding would be counted.

3 Strengthening community engagement and support

Overview of the Problem

Community engagement is asked of every proponent and every recipient. It is a key element of the Safe, Clean Water Program and central to the Watershed Coordination and Regionwide education programs. Projects submitted for inclusion in SIPs must document engagement prior to submittal (though such engagement is not currently required, as the submittals can be at various stages of development) and describe plans for engagement during implementation.

Some stakeholders and some members within the governing committees are concerned about the sufficiency and timing of community engagement, and the appropriate way to document community support for a project. Some believe sufficient quantity, quality, and frequency of engagement is not properly encouraged by the Program, and some feel unable to complete engagement prior to a funding award. Some believe that support from elected leaders, on behalf of the people they represent, is sufficient evidence of community support, while others wish for more direct engagement with people who will be impacted by projects be required. Additionally, it's key to note that extensive community engagement does not guarantee community support, and a strong demonstration of community support may not necessarily be the result of extensive engagement.

The Projects Module has already been updated to emphasize the importance of community engagement and support and to solicit additional information for committee reference while preparing recommendations. Some aspects of this issue may be addressed in additional guidance related to the fund transfer agreements, in support of engagement for funded projects during implementation.

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The eventual guidelines are anticipated to help clarify the following issues, at a minimum:

1. What “good” community engagement looks like in the SCWP and when it should take place.
2. What regional resources might be able to support and advance pre-submittal engagement.
3. What constitutes a demonstration of community support.

Potential Resolutions

- Provide guidance for Project developers that clarifies specific expectations for “good” community engagement activities based on guidance/input received to date and existing analyses from Cities and other project developers, the Our Water LA Coalition, the Movement Strategy Center, the Mujeres De La Tierra Engagement Project, the Institute for Sustainable Infrastructure Envision (QL3.1), and the Los Angeles County Public Works Communication Plan. Guidance may:
 - Take the form of a scale, from minimal community engagement efforts to maximal efforts, which would be recorded as part of project and WASC reporting efforts.
 - Elaborate on specific collaboration opportunities with and through Watershed Coordinators.
 - Develop potential recommendations to support/foster pre-submittal community engagement.
 - Incorporate some consideration of claimed benefits in relation to letters of support from community representatives or members.
- Expectations for level of community engagement could perhaps be differentiated based on timing and the stage of the project, either pre-feasibility phase, design phase construction phase, or construction phase, etc.
- Consider potential eventual linkage of community engagement to certain project scoring considerations or other programmatic efforts.
- Evaluate and consider additional community engagement requirements and expectations (post-award) in the Fund Transfer Agreements, as appropriate/applicable.

4 Clarifying prioritization of Nature-Based Solutions

Overview of Problem

The SCWP program goal to “prioritize Nature-Based Solutions,” and the definition of Nature-Based Solutions (NBS), allows proponents and WASCs to each make separate judgements on some specifics of what counts as a NBS and whether NBS is being prioritized within the Program.

In line with the matrix of NBS Best Management Practices included with the Funds Transfer Agreements, a standard vocabulary and additional guidance to improve the interpretation, utilization, and prioritization of NBS seems prudent. In the SCWP, a NBS is:

...a Project that utilizes natural processes that slow, detain, infiltrate or filter stormwater or urban runoff. These methods may include replying predominantly on soils and vegetation; increasing the permeability of impermeable areas; protecting protect undeveloped mountains and flood

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plains; creating and restoring riparian habitat and wetlands; creating rain gardens, bioswales, and parkway basins; and enhancing soil through composting, mulching, and planting trees and vegetation, with preference for native species....

The District has held several listening sessions with stakeholders to solicit input on this issue in addition to prior input received to date. Also note that the Projects Module has already been updated to solicit additional information for use by the committees.

There are multiple issues anticipated to be clarified in the SIP Guidelines:

1. What project elements count as “Nature-Based Solutions” and which do not
2. The process WASCs will use to consistently review and discuss NBS when considering recommendations

These two aspects of the guidance would be expected to support both the decision-making processes and the evaluation of how NBS is indeed being prioritized, when able, as a means to addressing needs within the Watershed Area.

Potential Resolutions

Clarifying What Counts as a “Nature-Based Solution”

- Annotate the Nature-Based Solutions matrix (already included in Fund Transfer Agreements and referenced in the Projects Module) to ensure consistent use of terminology and clarify categories to improve effective and standardized use of the matrix when crafting and discussing Projects.
- Develop an additional document that connects the problems that the SCWP was developed to address and which “NBS project types” are typically associated with each. Mapping the challenges to solutions could assist project developers and WASCs in expanding their design thinking and decision-making, as well as in messaging why selected solutions may be most prudent.

Outlining Processes for Developing and Evaluating NBS

- Incorporate the NBS matrix into WASC project evaluation. Project developers would input data into the Projects Modules and self-evaluate their Projects through an NBS filter using the matrix. After the Scoring Committee confirms the NBS evaluation, WASCs can incorporate it as one of the considerations for weighing projects against each other.
- Other long-term guidance to facilitate, point towards, and evaluate the prioritization of NBS.

5 Understanding Water Supply Benefits

Overview of Problem

Water Supply Benefits are a key element of the SCWP, but not all watershed areas or cities necessarily have equal potential to implement water supply projects. Additionally, there remain varying opinions

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about the interpretation of Water Supply Benefits in relation to certain types of activities that may result in such a benefit.

The SCW Program Ordinance defines “Water Supply Benefits” as activities that increase the amount of locally available water supply, provided there is a nexus to Stormwater or Urban Runoff pollution. Activities resulting in this benefit include but are not limited to: reuse and conservation practices, diversion of stormwater or urban runoff to a sanitary sewer system for direct or indirect water recycling, increased groundwater replenishment or available yield, or offset of potable water use.

Furthermore, the Feasibility Study Guidelines include a provision that feasibility studies must demonstrate that captured or diverted water would not otherwise be captured downstream of the project site to avoid double counting of water supply benefits. A footnote was included in the Feasibility Study Guidelines to temporarily allow Projects that capture water that is already captured downstream to be submitted/scored to receive Water Supply benefit points, as applicable, but with the acknowledgment that the District intended to further evaluate actual value added in capturing onsite and/or allowing downstream capacity to remain.

While SCW Program’s multi-benefit philosophy warrants that each Watershed Area (and its project proponents and stakeholders) recognize challenges in certain categories and therefore make it an intentional practice to focus on development of other components of proposed projects, it is also recognized that further guidance is needed related to the Water Supply Benefit. Because the hydrology and size of each watershed area is different, projects in some regions can more easily achieve groundwater storage of large volumes of water. So too, some watershed areas or cities have programmatic or comprehensive approaches to consider, meaning that any one project may provide small or no water supply benefits until future projects are constructed as well.

Additional guidance is anticipated to address how to score and evaluate the Water Supply Benefit of:

1. Projects claiming future Water Supply Benefits that rely on future integrated projects to be implemented.
2. Projects within Watershed Areas where it is believed that 100% of Stormwater runoff is captured/recharged or accounted for in management agreements.
3. Projects that may have no opportunity for Stormwater capture/recharge as “supply.”

Potential Resolutions

- Additional guidance for project proponents and WASC members on developing creative water supply benefit considerations.
- Clarify the interpretation and application of water supply benefits, potentially as the capacity to capture water, rather than the water itself (but still in conjunction with the expected amounts that might be available to capture in the future).