Los Angeles Regional Water Quality Control Board

October 30, 2026

Jerry Moreno
City of El Monte
Public Works Division
11333 Valley Boulevard
El Monte, California 91731

Dear Jerry Moreno:

RESPONSE TO THE NOTICE OF INTENT TO ADOPT AN INITIAL STUDY MITIGATED NEGATIVE DECLARATION FOR THE MERCED AVENUE STORMWATER CAPTURE PROJECT CIP NO. 089

Thank you for the opportunity to comment on the City of El Monte's Initial Study/Mitigated Negative Declaration (ISMND) for the proposed Merced Avenue Stormwater Capture Project (Project). The Project proposes enclosing an existing open creek (the El Monte Storm Drain); installing a stormwater capture, treatment, and infiltration bioswale; and constructing pedestrian improvements including a shared use path connecting Merced Linear Park to the Rio Hondo River Trail.

More specifically, the Project, as proposed, would replace the existing open channel with a subsurface, reinforced box culvert under Merced ave. A diversion structure placed within an existing culvert upstream of the channel would convey all dry-weather and a portion of wet-weather flows (3% of the 85th percentile storm) through a pre-treatment unit before flowing into a bioswale for treatment and infiltration. Overflows would be routed back into a box culvert at the downstream end of the creek under Brockway St. and be discharged into the outfall of the Rio Hondo Reach 3. Based on the jurisdictional delineation provided in Appendix B1, these proposed activities would permanently impact 1,941 linear feet or 0.54 acres of waters of the state.

The goal of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) is to protect beneficial uses within the Los Angeles Region consistent with the Federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act, which require careful consideration of projects which may result in adverse impacts to water quality and beneficial uses of waters of the State, including hydrogeomorphic changes.

In 2005, the Regional Board approved Resolution No. 2005-002, which outlines goals to address hydromodification of our region's water courses in order to prevent impacts to water quality. Hydromodification is considered the alteration away from a natural state of stream flows or the beds or banks of rivers, streams, or creeks, including ephemeral washes or drainages. The resolution sets forth a process to achieve one of the Regional Board's highest priorities, which is to maintain and restore, wherever feasible, the physical and biological integrity of the region's water courses.

In consideration of the Los Angeles Water Board's objectives, we have the following comments on the draft ISMND:

1. Impacts to Waters of the State

   In general, the direct or indirect impacts of the Project on waters of the state have not been fully analyzed in the draft ISMND, as specified below.

   a. Converting the existing creek (El Monte Storm Drain) into a subsurface box culvert would result in significant impacts to waters of the state by removing beneficial uses to the creek, which include Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and Rare, Threatened, or Endangered Species (RARE). The Los Angeles Water Board considers the storm drain a water of the state, as confirmed by the jurisdictional delineation indicating 0.54 acres and 1,941 linear feet of permanent impact in Table 1 in Appendix B1 (PDF page 788). Additionally, the Los Angeles Water Board's jurisdiction may extend beyond the Ordinary High Water Mark (OHWM) used in the delineation. Although the existing substrate in the creek, consisting of a concrete trapezoidal structure, only supports sparse vegetation, the open creek still acts as an important riparian corridor for wildlife. Please include an analysis of these impacts in the ISMND and consider preparation of an Environmental Impact Report in light of these significant impacts.

   b. The ISMND mentions the bioswale infiltrating and being able to store up to 0.23 acre-feet of water for future use. The project does not clearly describe how much of the flow will be infiltrated through the bioswale and how much will be returned downstream after treatment. Please clarify these amounts.

      Diverting and infiltrating a significant amount of the dry-weather and some of the wet-weather flows from the El Monte Storm Drain could impact beneficial uses in the creek and in the Rio Hondo Reach 3 downstream. The ISMND should therefore be revised to include an analysis of how reduced flows from the proposed diversion may affect downstream freshwater habitat, water quality, and beneficial uses. In addition, there are currently several stormwater diversion projects planned upstream of the project that will decrease the amount of water in the Rio Hondo. The ISMND should analyze the cumulative effects on flow and associated habitat from the project together with planned upstream stormwater diversion projects.

   c Section 2.1 Project Description (PDF page 9), of the ISMND mentions that the area of disturbance for the Project is approximately 2.56 acres and will be limited to the Rio Hondo, Merced Avenue and Brockway Street. However, the delineation in Section 6.1 of Appendix B1 does not indicate any temporary impacts to waters of the state. Work within the Rio Hondo, staging equipment or materials within the stream, or vehicular travel on the Rio Hondo would be considered temporary impacts to waters of the state. Please clarify where all temporary and permanent impacts would occur in this section of the ISMND.

2. Impacts to Water Quality Standards

   a. Chapter 3, Section X.a (PDF page 60) of the ISMND, to the question "*Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?*" finds less than significant impacts

based on compliance with the regional Municipal Separate Storm Sewer System (MS4) permit. The document states: "[w]ith the implementation of BMPs, the proposed Project would be in compliance with the MS4 permit. Therefore, the Project conforms with conditions related to water quality standards and waste discharge requirements to reduce the potential to substantially degrade surface or groundwater quality. Thus, a less than significant impact would occur."

Please clarify how the implementation of BMPs will comply with the MS4 permit, including water quality-based effluent limits and receiving water limits. Was the project modeled as part of the City's Reasonable Assurance Analysis? The ISMND has a stated a project purpose of "…stormwater improvements to the El Monte Storm Drain as well as water quality enhancements…" However, the ISMND has not established the necessity of the project nor the need to convert the existing creek into an underground culvert.

In addition, compliance with the MS4 permit alone does not mean that the project will comply with water quality standards or not substantially degrade surface and groundwater quality. Note that water quality standards include water quality objectives, beneficial uses and antidegradation requirements. The ISMND should include consideration of all three components of water quality standards. As stated above, the project may have substantial impacts on beneficial uses.

3. Avoidance and Minimization

The Los Angeles Water Board believes avoidance is the best strategy for managing potential water quality impacts and strongly discourages temporary or permanent impacts to waters of the state when avoidable. When impacts are unavoidable, they should be minimized to the maximum extent possible. The ISMND has not considered or analyzed other alternatives to the proposed project. Please revise the document to include this analysis. The ISMND should demonstrate how the chosen alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA), and how the project would improve storm water quality. Note that issuance of a Clean Water Act (CWA) Section 401 Water Quality Certification may be denied should the project not meet this criterion.

4. Mitigation

To the extent that impacts are not avoided, the ISMND should propose compensatory mitigation for the significant impacts to water quality and beneficial uses related to the conversion of the existing creek into a subsurface box culvert and to the infiltration of some of the dry and wet-weather flows from the El Monte Storm Drain. The compensatory mitigation must ensure that there is no net loss of the overall abundance, diversity, and condition of aquatic resources, based on the watershed profile. Final compensatory mitigation is subject to approval by the Los Angeles Water Board during the CWA Section 401 Water Quality Certification permitting process.

5. Water Rights

Chapter 8 of the ISMND mentions that the proposed treatment BMP will be designed with a storage volume of 0.23 acre-feet and will allow a portion of the infiltrated water to be stored for future use by vegetation on the surface. The ISMND should include a discussion of the Cities' water rights to the El Monte Storm Drain and how the City use of the water will meet these rights.

6. Construction General Permit

Section I.1 of the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (CGP) states, “The federal statutes and regulations require discharges to waters of the United States comprised of stormwater associated with construction activity to obtain [National Pollutant Discharge Elimination System (]NPDES[)] permit coverage (except operations that result in disturbance of less than one acre of total land area and that are not part of a larger common plan of development or sale). Construction activity includes, but is not limited to, clearing, demolition, grading, excavation, and other land disturbance activities.” Given that the proposed Project area will exceed one acre and the project activities listed in the ISMND include the listed activities in the CGP, the City is required to enroll in the CGP. Please revise the ISMND to reflect this fact.

Again, thank you for this chance to comment. We welcome the opportunity to work with you and the project proponent to make this project an example of environmental sustainability in California. If we may clarify any of our comments or be of further assistance, please contact Man Voong at (213) 576-6690 or at Man.Voong@waterboards.ca.gov, or Dr. Emily Duncan, at (213) 576-6679 or at Emily.Duncan@Waterboards.ca.gov.

Sincerely,

Celine Gallon Digitally signed by Celine Gallon
Date: 2026.10.30 20:51:49 -07'00'
Water Boards

Dr. Céline Gallon
Regional Programs Section Manager

cc:

Victoria Tang, Environmental Program Manager
California Department of Fish and Wildlife

Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9

Office of Land Use and Climate Innovation
State Clearing House