



Heal the Bay

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April 5, 2018

Ms. Deborah J. Smith
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Comments on the 2017-2019 Triennial Review: Consideration and Selection of Basin Planning Priority Projects, Draft Staff Report.

Dear Members of the Los Angeles Regional Water Quality Control Board:

On March 5, 2018, the Los Angeles Regional Water Quality Control Board (Regional Board) released a Notice of Public Hearing on the 2017-2019 Triennial Review, a Tentative Resolution, and a report entitled "2017-2019 Triennial Review: Consideration and Selection of Basin Planning Priority Projects, Draft Staff Report" (Staff Report). On behalf of Heal the Bay, a nonprofit organization with over 15,000 members dedicated to making the coastal waters and watersheds of Greater Los Angeles safe, healthy, and clean, we submit the following comments regarding the Staff Report.

We agree that priority should be given to several projects outlined in the Staff Recommendations; however, we have additional recommendations concerning these projects to be considered for incorporation into the 2017-2019 Triennial Review. The projects that we support, with some additional recommendations, are described in detail below.

Prioritize Recommendation 4.5. - *Continue the Development of a Regional Strategy to Address the Effects of Climate Change on Water Quality.*

We support the recommendation to continue development of a regional strategy to address the effects of climate change on water quality. It is imperative that this become and remain a high priority for the Regional Board as impacts from climate change are already being felt in our water scarce region.

Prioritize Recommendation 4.4. - *Continue the Development of SNMPs.*

We support the recommendation to continue the development of SNMPs, including the incorporation of management measures from the SNMPs into the Basin Plan, per the State Water Board's Recycled Water Policy. Development of SNMPs must remain a priority through these final development and implementation stages in order to properly protect local water quality.



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Prioritize Recommendation 4.2. - *Potential Actions Related to the State Water Board's Bacteria Provisions.*

Upon adoption of State Water Board Bacteria Provisions, priority should be given to potential responsive action that must be taken at the regional level. However, we do not fully support the latest draft of the State Water Board's bacteria provisions. We are particularly concerned with 1) the removal of fecal coliform as an indicator for estuarine and ocean waters, and 2) the high "risk protection level" of 32 illnesses per 1,000 recreators. If State Bacteria Provisions are adopted with weakened objectives, we urge the Regional Board to maintain strong regional bacteria objectives in the consideration of any amendments to the Basin Plan. Our priority is to maintain strict regulation of bacterial objectives in order to most effectively protect the beneficial uses of our local waterways.

Prioritize Recommendation 4.1. - *Evaluate New or Revised Section 304(a) Recommended Criteria for Incorporation into the Basin Plan as Water Quality Objectives.*

We support the recommendation to prioritize the evaluation of Section 304(a), as it is required following revisions to the federal Water Quality Standards (WQS) regulations at 40 C.F.R. Part 131. However, we are concerned that a project of this size will divert time and resources away from other priority projects, and we urge the Regional Board to consider all priority items in the allocation of resources during Phase III of the Triennial Review.

We also support the staff recommendation to not pursue several of the projects suggested by stakeholders, such as considering costs associated with achieving water quality objectives, developing a regional variance policy into the Basin Plan, or incorporating a groundwater mixing zone policy into the Basin Plan. As discussed in the Staff Report, these projects are not appropriate and may weaken protection of public and environmental health.

In addition to the areas supported by Heal the Bay listed above, we have objections concerning some of the recommendations made in the Staff Report that may lead to weakened water quality protections. Our recommendation with regard to our concerns are described in further detail below.

Do Not Prioritize Recommendation 4.3. - *Continue the Development of Technical Guidance for Making Natural Source Determinations.*

The Staff Report includes a recommendation to "resume work on developing implementation tools to address natural sources of pollutants" as the third highest priority project. We strongly caution the Regional Board against the continued development of technical guidance for making natural source determinations. We recognize that natural sources can significantly contribute to surface water contamination, but it is essential that these determinations be made carefully because they may lead to the relaxation of requirements for pollutant control.

Natural sources of contamination are often comingled with anthropogenic sources, making them difficult to distinguish. If there is a high concentration of contamination found in a waterway that is



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a result of both anthropogenic and natural sources, “Natural Source Determination” may falsely determine that the full weight of that contaminant concentration originates from to the natural sources, therefore allowing discharge with higher contaminant concentrations. The presence of contaminants from a natural source should not be used as the basis for the Regional Board to allow entities to discharge additional contaminants that may contribute to a water quality issue. As such, we recommend the Regional Board give higher priority on preventing and controlling pollution over determinations that may lead to exclusions or weakened water quality protections.

Prioritize Recommendation 5.1.5. - Develop Water Quality Objectives to Implement Beneficial Uses with respect to Hydromodification as a Pollutant.

Regional Board Staff does not recommend that priority be given to development of water quality objectives with respect to hydromodification because, on its own, hydromodification is not considered a source of pollution. However, hydromodification of waterways in the Los Angeles Region amplifies impacts of contamination from both anthropogenic sources and natural sources such as birds, other animals, and geological formations.

One approach to addressing hydromodification issues in the regulatory context would be to include it as a potential impairment. Similar condition-based impairments have been used for 303(d) listings and the development of TMDLs, such as invasive species, sedimentation, and benthic communities in the Malibu Creek Watershed. Environmental stressors degrading beneficial uses in these cases included both water quality and physical habitat quality. We strongly recommend that the Regional Board reconsider for priority the development of water quality objectives with respect to hydromodification as a Class IV impairment.

Prioritize Recommendation 5.1.4. - Develop Water Quality Objectives for Flow.

Priority is not specifically given in the Staff Recommendations to the development of water quality objectives for flow because “flow objectives or policy for the protection of beneficial uses would likely be initiated and led by the State Water Board.” We are pleased that the Regional Board will work with the State Board to develop state-wide flow objectives; however, considering the unique hydrology in the Los Angeles area (as a result of hydromodification), site-specific objectives will be necessary to maintain biological integrity in our local waterways. We strongly urge the Regional Board to take a leadership role in determining flow objectives in order to protect beneficial uses and biological integrity in Los Angeles waterways.

Prioritize Development of Biological Objectives

The current statewide effort to develop biological objectives for California’s streams is long overdue. We urge the Regional Board to take the initiative and prioritize this critical issue regionally. The importance of developing objectives for stream biology cannot be understated. The biological condition of a stream tells a meaningful and comprehensive story of the condition of the stream’s water quality, habitat, and biota. The reliance for many years on assessing a waterbody’s condition on a chemical-by-chemical basis is inadequate to protect ecological beneficial uses. The scientific



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knowledge of stream ecology is far ahead of California's outdated policies and monitoring requirements. It is incredibly important that we utilize and rely on the most comprehensive, ecologically relevant metrics to determine the state of California's streams. In fact, we can look to the San Diego Regional Water Quality Control Board for guidance as they have just released draft biological objectives for the San Diego region. ¹ Following in San Diego's footsteps, Los Angeles has the opportunity to make a legacy decision that will put southern California at the forefront of protection of stream biological condition. The need to develop biological objectives is clear. We urge you to make biological objectives a policy priority and to adopt regional objectives, relying on the technical work done at the statewide level and as proposed by San Diego.

Thank you for the opportunity to comment on Phase II of the 2017-2019 Triennial Review and provide our recommendations for project priority. If you have any questions about the recommendations made in this letter, please contact Annelisa Moe by phone at (310) 451-1500 X 139 or through e-mail at amoe@healthebay.org.

Sincerely,

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cc: Ginachi Amah, Senior Water Resources Control Engineer, LA Regional Water Quality Control Board

1

https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/bio_objectives/doc/Biological_Objects_StaffReport_AdminDraft.pdf