



May 18, 2015

Mr. Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
Via e-mail: Samuel.Unger@waterboards.ca.gov, kwang@waterboards.ca.gov,
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Re: Comments on the Proposed Amendment to the Water Quality Control Plan – Los Angeles Region to incorporate the TMDL for Indicator Bacteria in the San Gabriel River, Estuary and Tributaries

Dear Mr. Unger,

On behalf of Heal the Bay and Los Angeles Waterkeeper, we submit the following comments on the *Proposed Amendment to the Water Quality Control Plan – Los Angeles Region to incorporate the TMDL for Indicator Bacteria in the San Gabriel River, Estuary and Tributaries* ("Draft TMDL"). We appreciate the opportunity to provide these comments.

We are supportive of many aspects of this Draft TMDL, including the proposed numeric targets and exceedance day approach. However, we do have several concerns such as the lack of interim WLAs, and the length of time allowed for compliance. These concerns and others are addressed in detail below.

The Regional Board should require a rolling 30-day geometric mean period

We urge the Regional Board to require a rolling 30-day geometric mean period, which is critical for tracking and identifying chronic water quality problems. This is extremely important for public health protection of beachgoers on a day to day basis. The Regional Board staff is proposing a longer six-week geometric mean period. A shorter geometric mean period is more technically sound because it allows for a more comprehensive analysis, which can better account for the beach water quality fluctuations that may be masked with a longer period.

According to EPA's 2012 Recreational Water Quality Criteria, the current water quality monitoring recommendation is no less than five samples equally spaced over a 30-day period. California's Ocean Plan is identical to USEPA's geometric mean water quality monitoring guidelines. Additionally, the California Department of Health Services' Draft Guidance for Salt and Freshwater Beaches recommends a "...a 30-day sampling period in order to provide the minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas." There is no justification for the Regional Board to propose a different geometric mean calculation in the Draft TMDL.

While we support zero (0) exceedances of the geometric mean, we believe the proposed increase in the geometric mean period is unjustified as it will result in decrease in public health protections. Instead, the Regional Board should take the most protective approach and use a rolling 30-day geometric mean period, at the minimum.



The Regional Board should explicitly require that an Implementation Plan be developed for this TMDL

The Draft TMDL includes no provision for development of an Implementation Plan, only stating that the "WLAs shall be incorporated into MS4 permits." As required by the Clean Water Act and implementing regulations, the WLAs of this TMDL must be incorporated into NPDES Permits, including the 2012 Los Angeles County MS4 Permit. To assure point source dischargers, including MS4 dischargers, start implementing measures to reach compliance with TMDL WLAs as soon as possible, the TMDL should include an implementation plan outlining deadlines with measurable milestones toward the ultimate compliance date.

In addition, the Draft TMDL must include interim WLAs to ensure point sources covered by the TMDL are taking early steps to reach ultimate compliance with the final WLAs. The interim WLAs should be explicitly defined in the Draft TMDL. We urge the Regional Board to include compliance milestones or interim WLAs in the TMDL that can then be incorporated into the MS4 Permit and WMPs and EWMPs. Enforceable, interim milestones are important to ensure that dischargers are on track for meeting WLAs. Specifically, we suggest including an interim WLA for wet weather compliance at year 7. This could consist of an allowable number of exceedance days in between background and final WLAs or higher bacteria standards (in density) than the numeric target. We believe that a 50% reduction in exceedance days and/or geometric mean bacterial density makes sense as an interim target and urge the Regional Board to modify the Draft TMDL accordingly.

The San Gabriel River Dry Weather Compliance Deadline is Unjustifiably Long

The Draft TMDL requires dry weather compliance within 10 years after the effective date of the TMDL. Instead, we believe that the dry weather compliance deadline for the San Gabriel River Watershed should not exceed 6 years for dry weather. The Bacteria TMDL for Ballona Creek, a far more urbanized and polluted watershed, has a dry weather compliance deadline of 6 years. The same compliance period should be attainable for final bacteria compliance throughout the San Gabriel River Watershed.

The need for a shorter dry weather compliance period is well-established. The dry weather period is when we see the greatest numbers of recreational users in the River, and thus, the greatest public health risk from contacting polluted water. Dry weather runoff is also relatively easier to control and should already be controlled under current municipal MS4 permit provisions. Of note, the 2001 Los Angeles County Municipal Storm Water permit included requirements that, "*Permittees are to assure....that the discharge of non-storm water to the MS4 has been effectively prohibited.*" Since non-storm water discharges are prohibited under the MS4 Permit, the Regional Board should expedite the schedule for dry weather compliance with the San Gabriel River Bacteria TMDL and be consistent with the Ballona Creek TMDL.

The Regional Board should use a more appropriate reference beach such as Nicholas Beach

While we believe that a reference beach approach is an appropriate way to develop fecal Bacteria TMDLs, Leo Carrillo Beach is no longer an appropriate reference beach for bacteria TMDLs in the Los



Angeles Region. Based on Heal the Bay's analysis of Beach Report Card data for the Region and the land uses and level of development in the Los Angeles Region watersheds, a more appropriate reference beach for our Region is Nicholas Beach, located at the bottom of the Nicholas Canyon watershed. Consequently, the Regional Board can no longer rely on Leo Carrillo Beach as the reference beach for our Region but should instead explore other, more appropriate reference beach locations such as Nicholas Beach in the Draft TMDL.

As the Regional Board explained when it initially developed the reference beach approach for fecal bacteria TMDL's in the Los Angeles Region, Leo Carrillo Beach and the Arroyo Sequit watershed were selected as an "interim" reference system "until other reference sites ... are evaluated and the necessary data collected to support the use of alternative reference sites".¹ The criteria for selecting an appropriate reference system include: 1) availability of adequate historic shoreline monitoring data at the beach, 2) lowest level of development in the watershed draining to the beach, and 3) existence of fresh water outlet (i.e. creek) to the beach. The Regional Board's decision to choose Leo Carrillo as an interim reference site was primarily driven by the limited availability of historical shoreline monitoring data but the Board unequivocally resolved to re-evaluate the use of Leo Carrillo Beach due to concerns with the development in close proximity to the beach.

Shoreline monitoring data from recent years has in fact confirmed the Regional Board's concerns, demonstrating that Leo Carrillo Beach is not the appropriate reference site beach for fecal bacteria TMDLs in the Los Angeles Region. The data is unsurprising since Leo Carrillo Beach has significant development at the terminus of Arroyo Sequit Creek (the creek emptying at Leo Carrillo Beach), with septic systems located near the bottom of the creek and heavy use by campers of the areas in close proximity to the beach. Staff's proposed Draft TMDL contains no assessment of the current condition and effectiveness of these old and heavily used septic systems. An analysis of the contributions of these systems to bacterial contamination in the lower watershed is long overdue and should be provided before the Regional Board can continue to rely on Leo Carrillo Beach as a reference site.

The Regional Board should not implement sub-seasons in the Draft Amendment

It is inappropriate for the Regional Board to divide the geometric mean calculation period into sub-seasons for the San Gabriel River watershed as proposed in the Draft TMDL. Calculating a geometric mean per subseason would inhibit the ability to track chronic pollution problems, and is inconsistent with the rolling geometric means proposed in the TMDLs for Santa Monica Bay, Marina del Rey, LA Harbor and Cabrillo Beach, and Malibu Creek Watershed Bacteria.

We urge the Regional Board to remove geometric mean sub-season periods and instead retain a rolling 30-day geometric mean for both wet and dry weather, in order to provide continuous public health protection.

¹ Regional Board Resolution No. 2002-002



The Regional Board should not use the 90th percentile storm year to determine exceedance rates

The proposed Draft Amendment uses the number of wet weather days during the 90th percentile storm year to determine the allowable number of exceedance days. Because the 90th percentile rain event year is used to determine the number of allowable exceedances, during 90% of all years analyzed, the actual number of exceedances at the reference location will be less than the allowable number of exceedances. Thus, in 90% of the years the TMDL does not truly account only for natural conditions. Heal the Bay has expressed its concern over this methodology in our comment letters regarding both the dry and wet bacteria TMDL's for Santa Monica Bay Beaches. Instead, we suggest that the Regional Board use the median or 50th percentile storm year.

Another point that should be addressed is that there appears to be an arithmetic error in the calculation of Allowable Exceedance Days for High Flow Suspension waterbodies during wet weather. The TMDL Staff Report states that there were 87 wet weather days in the reference year, and that 30 of these were HFS days. It then goes on to say that there were 47 remaining wet weather days and calculates allowable exceedance days based on this number. It seems that either there should have been 40 (not 30) HFS days, or that the remaining wet weather days should be 57, and that the allowable exceedance days should then be adjusted.

In summary, while we support many aspects of this Draft TMDL, we urge the Regional Board to modify the Draft TMDL in accordance with the comments above.

Sincerely,

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