Heal the Bay

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June 7, 2010

Yanjie Chu
California Regional Water Quality Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Comments on the Proposed Amendment to the Water Quality Control Plan for Los Angeles Region to incorporate Total Maximum Daily Load (TMDL) for Bacteria in the Santa Clara Estuary and Reaches 3, 5, 6, and 7.

Dear Yanjie,

On behalf of Heal the Bay, we submit the following comments on the *Proposed Amendment to the Water Quality Control Plan for the Los Angeles Region to incorporate Total Maximum Daily Load for Bacteria in the Santa Clara Estuary and Reaches 3, 5, 6, and 7* ("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 potential contribution of bacteria pollution from the reaches not covered by the Draft TMDL and the lack of interim WLAs. These concerns and others are addressed in detail below.

The Regional Board should include WLAs for Santa Clara River Reaches 1, 2 and 4.

The scope of the Draft TMDL is limited to the Santa Clara River Estuary and Reaches 3, 5, 6, and 7. We are concerned that other reaches and tributaries, including but not limited to Reaches 1, 2 and 4 may cause or contribute to exceedances in these impaired reaches. If the Regional Board holds that the other reaches in the Santa Clara River are meeting water quality standards, then there is no reason not to assign WLAs to the other reaches as well. By assigning WLAs to all reaches, there will be greater confidence that final WLAs in impaired reaches will be attained. At a minimum, the Regional Board should require routine monitoring of the reaches not covered in the Draft TMDL to confirm that water quality standards are met and understand if they are contributing to exceedances.

The Regional Board should specify Interim WLAs within the TMDL

The Draft TMDL's Implementation Schedule suggests that the responsible party-developed Implementation Plan should include "proposed milestones." Assigning this responsibility to a discharger is inappropriate. Regulatory responsibility under the TMDL is the Regional Board's responsibility and cannot be delegated to the regulated community. We urge the Regional Board to include compliance

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milestones or interim WLAs in the TMDL. Enforceable, interim milestones are important to ensure that dischargers are on track for meeting WLAs. Of note, the Draft Los Angeles River Bacteria TMDL includes Interim 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. For example, a 50% reduction in exceedance days and/or geometric mean bacterial density makes more sense as an interim target. We urge the Regional Board to modify the Draft TMDL accordingly.

The Santa Clara River Dry Weather Compliance Deadline should be less than 8 years.

The Draft TMDL requires dry weather compliance within 8 years after the effective date of the TMDL. Instead, we believe that the dry weather compliance deadline for the Santa Clara Estuary and Reaches 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, which should be attainable for final bacteria compliance throughout the Santa Clara River and Estuary. As you know, 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 2000 Ventura County Municipal Storm Water permit included requirements for Receiving Water Limitation exceedances and implementation of control measures to reduce pollutants in the discharge. The requirements state that, "*permittees shall effectively prohibit non-storm water discharges into the MS4 (storm drain systems) and watercourses…and any violation of this order constitutes a violation of the Clean Water Act..and is ground for enforcement action."* Since storm water discharges have been illegal for over a decade, the Regional Board should expedite the schedule and be consistent with the Ballona Creek TMDL.

The Number of Compliance Monitoring Locations should be increased within each Reach.

According to **page 5 of the TMDL**, "*a minimum of at least one sampling station will be located in each impaired reach*." One sampling station per reach is too low, and should be increased to at least 3 sampling sites within each reach (upstream, middle, and downstream). Reaches within the Santa Clara River are miles long. One monitoring location per reach will not provide a complete picture of water quality in the River. By increasing the number of monitoring locations per reach, stakeholders will be better able to identify problem areas and determine if water quality standards are being attained.

Additionally, storm drain outlets should be monitored for compliance purposes. According to a recent court ruling regarding MS4 dischargers' storm drains, (Natural Resources Defense Council (NRDC), Inc., *et al.* and the County of Los Angeles *et al.*) "*Standards exceeding pollutants must have passed through a County or District outflow in order to constitute a discharge under the Clean Water Act and the Permit*." Extrapolating this ruling to the Draft TMDL, it is critical to have additional outfall monitoring to be able to verify that there is, in fact, a discharge. This is important to identify responsible parties that cause or contribute exceedances of water quality standards.

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Additional Details Should be Provided on the Reference System

P**age 52 of the staff report** discusses how percentages of exceedance probability days for freshwater (Reaches 3, 5, 6, and 7) were based on Southern California Coastal Water Research Program's (SCCWRP) study focusing on single sample *E. coli* Exceedance Probabilities for dry and wet weather and the Estuary calculation was based on the San Onofre State Beach and San Mateo Beach analysis in another SCCWRP study. However, data was not available in the staff report or in the published SCCWRP study. Critical details such as exact monitoring locations were left out, which makes it difficult to confirm the validity of the exceedance probabilities for fresh water. We ask that staff provide this information and additional details on the analysis.

The Regional Board should Consider Impacts from a POTW's Nutrient Discharge on Bacteria Regrowth

The Draft TMDL appropriately assigns a WLA of zero allowable exceedance days to POTWs including the Saugus water reclamation plant, Santa Paula water reclamation facility and Ventura water reclamation facility. However the Draft TMDL and accompanying staff report do not discuss how nutrient discharges from POTWs could contribute to increased bacteria regrowth in the impaired reaches. For instance, the Ventura water reclamation facility has discharged high levels of nutrients for many years and NDN facilities have yet to be completed. This discharge may have contributed to bacterial regrowth in the Estuary. Thus, the Regional Board should also account for this potential source from POTWs in the Draft TDML. Also, the Board should consider how variable discharge volumes and nutrient concentrations can impact bacterial densities in the lagoon over the implementation schedule for the TMDL.

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. In particular, we think it is critical to provide WLAs for all Santa Clara River reaches and require that discharges meet interim WLAs.

Thank you for taking the time to review our comments. If you have any questions, please contact us at 310-451-1500.

Sincerely,

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Beach Water Quality Scientist

Kirsten James, MESM
Water Quality Director

Mark Gold, D. Env.
President