Department of Water and Power the City of Los Angeles

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June 3, 2010

Mr. Samuel Unger
Interim Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4TH Street, Suite 200
Los Angeles, California 90013

Attention: Mr. Man Voong

Dear Mr. Unger:

Subject: Proposed Los Angeles River Bacteria Total Maximum Daily Load (TMDL)

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the proposed Los Angeles River Bacteria Total Maximum Daily Load (TMDL).

LADWP supports that Escherichia coli (E. coli) replace fecal coliform as the sole bacterial indicator to assess the quality of fresh waters used for water contact recreation, as well as the removal of unnecessary regulatory and monitoring requirements that would arise from having water quality objectives for both indicators.

LADWP has many concerns regarding the TMDL, the following five of which are most significant: 1) The TMDL may not achieve water quality objectives (WQOs), despite significant capital investments and impacts to operations, due to the highly unpredictable nature of bacteria in urbanized watersheds, 2) Waste Load Allocations (WLAs) for permittees will not be equitable due to the nature of discharges from MS4 systems, which comingle pollutants from both point and non-point sources; 3) permittees are assuming the burden for non-point sources that are outside the direct purview of the Board; 4) increased re-use/recycling of wastewater streams, to "stretch" potable water supplies, will likely reduce overall flow and impact bacteria levels; and 5) general, individual, industrial and construction storm water permittees are allowed zero (0) exceedance days and no compliance schedule. Thus, requiring end of pipe numeric limits when these permits are renewed, and would be effective immediately. These points are elaborated below.

During the May 26, 2010, TMDL meeting, staff from the California Regional Water Quality Control Board (Board), Los Angeles Region, acknowledged the complexities associated with discharges of bacteria in urbanized watersheds. Even though the proposed TMDL is based on the best available science, the best science cannot "overcome" inherent uncertainties regarding bacteria loads, including extreme variability, conflicting results depending upon the indicators utilized, the potential for low-flows to result in high bacteria

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loading rates, the presence of natural and uncharacterized sources that may contribute to exceedances, and the like.

Permittees within one river segment have no simple or compulsory mechanism for coordination among themselves to help facilitate segment compliance, and the interests of the multiple permittees may in fact conflict. One permittee may implement a suite of measures to ensure TMDL compliance, but upstream or downstream pollutant discharges may result in outfall discharges that obviate that. Further, permittees may have no or little control over the nature and amount of discharges into a shared storm drain they utilize. This is a critical shortcoming that ensures that WLAs assigned to permittees on shared storm drains cannot be equitable. In addition, it forces the permittees to assume responsibility for nonpoint source pollutants.

Further, mandates and policies supporting the re-use/recycling of water may reduce flows and also impact bacteria loads, an issue acknowledged by staff.

The following example illustrates some monitoring and operational burdens that were imposed upon LADWP, an MS4 co-permittee, which achieved no clear water quality benefit – in advance of the bacteria TMDL. There are very strict bacterial (total coliform bacteria) limits for drinking water, and LADWP is in full compliance with State and Federal Primary Standards for such. Yet when draining potable water from an LADWP reservoir, LADWP has been required to undertake bacteria monitoring for those discharges. Per the Board, monitoring was not conducted at the reservoir egress and prior to discharge into the MS4 system, which would have been the only appropriate monitoring location. Instead, the monitoring was required to be conducted at "the point at which the reservoir discharge enters the Ocean (i.e. wave wash or point zero), at the direction of the Board. This location was next to a bridge where numerous birds roost and/or rest. Under these circumstances, there could not have been an accurate one-to-one correlation between the water quality/bacterial levels of drinking water stored in LADWP's reservoir, and the water tested at point zero. For this reason, LADWP also obtained samples at the reservoir egress; comparison of samples from the two locations clearly demonstrated that the storm drain system introduced additional bacteria into the discharge. The time and resources expended for this monitoring did nothing to enhance or protect water quality. LADWP asserts that the outfall monitoring approach advocated for Phase I of the bacteria TMDL is akin to the potable water testing described in this paragraph.

Open reservoirs of course may acquire some bacteria from contaminated runoff, vectors and birds. The Board recognizes these natural sources of bacteria and has therefore allocated a number of allowable TMDL exceedance days. Yet these reservoirs represent a unique set of circumstances, and it is unclear whether the TMDL accounts for them. It would be operationally infeasible and unaffordable to treat this water prior to discharge, yet the TMDL may demand such.

The final issue of significance is the general, individual, industrial and construction storm water permittees are allowed zero (0) exceedance days and no compliance schedule. Thus, requiring end of pipe numeric limits when these permits are renewed that would be effective immediately. However, given that these discharges are comingled inside the MS4

system, it would be impossible to ascertain compliance and responsibility for the exceedance. The only equitable monitoring method would be prior to discharge into the MS4 system, but this would impose undue operational burdens such as modifications to facilities, piping systems, etc. Further, lack of a compliance schedule is highly inequitable.

In closing, too little time has been allotted between the May 26 scoping meeting and the July 8 and 9 governing Board meeting, at which the TMDL recommendation will be considered. At this juncture, it is still unclear whether the Board staff will present a revised TMDL proposal that incorporates comments provided by CREST (Cleaner Rivers through Effective Stake-holder-led TMDLs) that was discussed in May.

Thank you for this opportunity to provide comments. Should you have any questions, please contact me or Ms. Jennifer Pinkerton at (213) 367-0436 or (213) 367-4230, respectively.

Sincerely,

Katherine Rubin
Manager of Wastewater Quality and Compliance

JP:lr
c: Jennifer Pinkerton
Mr. David Hung, Regional Water Quality Control Board
Los Angeles Region - RWQCB
Ms. Renee Purdy, RWQCB
Mr. Man Voong, RWQCB