February 6, 2017

Los Angeles Regional Water Quality Control Board
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Dear Regional Board Staff,

Thank you for the opportunity to comment on the Tentative Waste Discharge Requirements (WDR) for the Tillman (Order R4-2017-xxx, NPDES NO. CA0056227), Los Angeles-Glendale (Order R4-2017-00xx, NPDES NO. CA0053953), and Burbank (Order R4-2017-00xx, NPDES NO. CA0055531) Publically Owned Treatment Works (POTW). Los Angeles Waterkeeper (LAW) respectfully submits the following consolidated comments on the three Tentative WDRs.

Los Angeles Waterkeeper is a nonprofit environmental organization with over 3,000 members dedicated to protecting and restoring all surface and ground waters in Los Angeles County and ensuring an environmentally and socially sustainable water supply. LAW advocates the "4R" approach to Integrated Water Management: Reduce use of water through conservation with a goal of 50/gallons/person/day; Reuse greywater and capture stormwater; Recycle through wastewater reclamation; and Restore watershed health both in source areas of water supply and in the increasingly important aquifer underlying large sections of the San Fernando Valley.

The three POTWs function, along with the Hyperion POTW operated by the City of Los Angeles, as part of an "integrated network" (Burbank Tentative, page 76 of 148) in which solids from the POTWs in the Los Angeles river watershed are transported to Hyperion for further treatment. All three POTWs are located in the watershed of the Los Angeles River, and discharge to the river or its tributaries. The cumulative impact of the three POTWs on the river is huge—the discharge provides the vast majority of the dry season flows in the river. The treated discharge supports a number of beneficial uses, including habitat for four rare and threatened aquatic species, and an increasingly important recreational resource for Angelinos and visitors, including a growing interest in kayaking.[1] Some level of base flow is necessary to maintaining these uses of the river, although the native aquatic species are adapted to seasonal periods of extremely low flow.

[1] *Water Quality Control Plan, Los Angeles Region, Basin plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, California Regional Water Quality Control Board, Los Angeles Region (4), Table 2-1 Beneficial Uses of Inland Surface Waters, 2-12 (adopted June 13, 1994, as amended).

The City of Los Angeles analyzed the relationship between base flows and beneficial uses in the Environmental Impact Report prepared for its Tillman Groundwater Replenishment project, and determined that a 27 MDG base flow in the river could support the beneficial uses. The City therefore committed to maintaining a 27 million gallon per day base flow in the Los Angeles River and several nearby ponds as a mitigation commitment, but the Tentative WDR for Tillman does not make mention of this commitment to base flows, nor include the commitment as a condition of the WDR.

At the same time, all of the POTWs are located in the San Fernando Valley (SFV), whose groundwater basin provides a critical local resource for water supply. Injection or spreading of treated wastewater into the permeable soils of the SFV for later reuse could put the Los Angeles area well along the road to water self-sufficiency. All three POTWs discharge tertiary treated wastewater into the river or its tributaries, which ultimately discharges into Pacific Ocean in Long Beach. The design capacity of the POTWs is cumulatively 112.5 MGD. (80 MDG for Tillman, 20 MGD for Los Angeles-Glendale, and 12.5 MGD for Burbank.) Subtracting out the 27 MGD from Tillman dedicated to maintaining beneficial uses of the river, there is still potential for up to 85.5 MDG, or 95,772 acre feet per year, of which 30,000 acre feet per year will be realized by the Tillman reclamation project already approved by the City of Los Angeles.

Thus, potentially around 65,000 acre feet per year is available as a potential water supply from these three facilities (not including additional reclamation opportunities potentially available by increasing capacity from these facilities as a way to reclaim additional wastewater that is currently pumped to Hyperion and discharged into the ocean). It is particularly critical to understand the potential for water reclamation for these three facilities due to their relative proximity to the SFV spreading grounds that infiltrate into the Central Groundwater Basin. Recharging aquifers with purified water as close to the groundwater basin as possible reduces the cost, energy needs and overall environmental impacts of such projects (as compared with treating and pumping from Hyperion). Yet, the WDRs consider each plant in isolation (despite the recognition of the integrated nature of the network they provide), and fail to analyze the opportunity both for using existing design capacity to reclaim water and the potential to expand upstream capacity to reclaim even more water. Some of this water is presumably necessary to transport solids to Hyperion absent adoption of on-site capabilities for processing solids, although how much is unclear.

The WDR for Los Angeles-Glendale includes an express finding that the region has a need for recycled water, especially during droughts. (Glendale Tentative, page 76 of 150.) Yet all of the WDRs defer analysis of this important issue, including conditions that the plant operators investigate the feasibility of recycling treated wastewater. If found feasible, POTW operators would be required to initiate or update the process provided for in Section 1211 of the Water Code for additional analysis and application for water rights from the State Water Resources Control Board (SWRCB). These analyses would be submitted when the permits are next up for renewal.[2] (Glendale Tentative, page 91 of 150; Burbank Tentative, page 89 of 148;

[2] The Section 1211 analysis is outside the scope of the Section 13889 partial CEQA exemption and thus subject to full CEQA review, as recognized by the Regional Board itself. (See

Tillman Tentative, page 96 of 163.) Waiting at least five years, and potentially longer, is unacceptable given the need for recycled water and the potential wastefulness of a lengthy delay.

The tentative WDRs all mention the Water Code exemption from Chapter 3 of the California Environmental Quality Act (CEQA). (See Water Code Section 13889 and Glendale Tentative page 86 of 150; Burbank Tentative page 84 of 148; and Tillman Tentative page 92 of 163.) Despite the facial limitation of the exemption to Chapter 3, the Tentative WDRs are all treat CEQA as wholly inapplicable. No analysis or findings are included for those parts of CEQA that apply to the project. Of particular importance is Section 21002 of the Public Resources Code, located in Chapter 1 of CEQA, which bans agencies from approving projects when feasible alternatives exist with fewer environmental impacts. Approval of the Tentative WDRs would be premature unless analysis is undertaken to allow the Regional Board to make such a finding—especially since the WDRs do not include analysis of what base flow is necessary to support beneficial uses of the river, or what potential exists for increasing recycled water. Such an analysis would necessarily include cumulative impacts of the entire "integrated system" (including Hyperion) and balancing of impacts and benefits envisioned by Section 1211 of the Water Code.

Further, the tentative WDRs do not make findings or include analysis of Article X, Section 2 of the California Constitution, which prohibits waste and unreasonable use of water. Instead, as described above, the WDRs put off any Waste and Unreasonable Use analysis for at least five years. The discharge of millions of gallons of treated wastewater, beyond that essential for maintaining beneficial uses, particularly when the point of discharge is located over a groundwater aquifer, is unreasonable and a waste of that water. Permitting that continued waste via the WDRs is contrary to law. Further, compliance with the mandate of the California Constitution and the Water Code in evaluating the reasonableness of the discharges permitted under the WDRs would provide the balanced, region-wide and integrated review of water supply, wasterwater discharges, and recycling that is particularly appropriate here. LAW recently commented on the issue of waste and unreasonable use at length when the Hyperion WDR was up for renewal, and is attaching those comments as a possible guide to what type of analysis would be appropriate for the POTWs in the Los Angeles River watershed. (Obviously, some important differences exist between direct ocean discharge of treated wastewater and discharge to a river system supporting beneficial uses.) LAW is also working with the City of Los Angeles to address its concerns specific to Hyperion.

The discussion of public participation is quite confusing, repeatedly referring to future events in the past tense. (See, for example, Glendale Tentative page 143 of 150.) It is also unclear whether the Regional Board will consider the record to be "open" on March 2, should members of the public have additional concerns and wish to raise such issues at the hearing.

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http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/wastewaterchange/) Since the Section 1211 process is also outside the scope of the Water Boards' certified regulatory agency status, the documents resulting from the Section 1211 process would take the form of an EIR or Mitigated Negative Declaration.

LAW thanks you for the opportunity to comment on the important Tentative WDRs. The permit decisions made now will have important ramifications for the Los Angeles River and for realizing the potential of the Central Groundwater Basin to provide water for the region.

We look forward to continued close engagement on these issues.

Sincerely,

Arthur S. Pugsley
Senior Attorney
Los Angeles Waterkeeper

Attachment: LAW/NRDC Proposed Hyperion Waste and Unreasonable Use Analysis