

Response to Comments on Tentative Time Schedule Order Requiring the City of Los Angeles, the County of Los Angeles, the Los Angeles County Flood Control District, the City of Beverly Hills, the City of Culver City, the City of Inglewood, and the City of West Hollywood to Comply with Requirements Pertaining to Discharges of Bacteria During Dry Weather to Ballona Creek, Ballona Estuary, and Sepulveda Channel Prescribed in the Los Angeles County MS4 Permit (Order No. R4-2012-0175)

Commenters	Date of Letter
City of West Hollywood	April 23, 2015
City of Los Angeles	April 27, 2015
City of Beverly Hills	April 27, 2015
County of Los Angeles and Los Angeles County Flood Control District (jointly)	April 27, 2015
City of Culver City	April 27, 2015
Joyce Dillard	April 27, 2015
Los Angeles Waterkeeper and Heal the Bay (jointly)	April 27, 2015

Comment No.	Commenter	Comment	Response	Change Made
1	City of West Hollywood	The City of West Hollywood supports the approval of the Time Schedule Order (TSO) for [the] Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria Total Maximum Daily Load (Bacteria TMDL).	Comment noted.	None
2	City of Los Angeles	The City of Los Angeles supports the adoption of the tentative TSO for the Bacteria TMDL as issued by the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB) on March 27, 2015.	Comment noted.	None
3	City of Beverly Hills	The City of Beverly Hills supports the approval of the TSO for [the] Bacteria	Comment noted.	None

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		TMDL.		
4	County of Los Angeles and Los Angeles County Flood Control District	The County of Los Angeles and the Los Angeles County Flood Control District (LACFCD) support the approval of the TSO for [the] Bacteria TMDL.	Comment noted.	None
5	City of Culver City	The City of Culver City supports the approval of the TSO for [the] Bacteria TMDL.	Comment noted.	None
6.1	Joyce Dillard	It is difficult to understand the reasoning behind this TSO.	<p>In 2006, the Los Angeles Water Board established a total maximum daily load (TMDL), via regulation, to specifically address water quality impairments due to elevated levels of bacteria in Ballona Creek, Ballona Estuary and Sepulveda Channel. The TMDL assigned wasteload allocations to Los Angeles County, Los Angeles County Flood Control District (LACFCD), and the cities of Los Angeles, Beverly Hills, Culver City, Inglewood, West Hollywood, and Santa Monica that would require these entities to reduce point source discharges of bacteria from their municipal separate storm sewer systems (MS4s), which includes storm drains, during summer and winter dry weather sufficiently to eliminate the water quality impairments.</p> <p>The Los Angeles County MS4 Permit (LA County MS4 Permit), which regulates discharges of pollutants from MS4s, includes new dry weather bacteria effluent limits and</p>	None

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			<p>corresponding receiving water limits to implement the TMDL described above. The LACFCD, Los Angeles County, and the cities of Los Angeles, Beverly Hills, Culver City, Inglewood, and West Hollywood are subject to these limits. The Permit required that the permittees identified above achieve the final limits by April 27, 2013.</p> <p>However, based on an evaluation of water quality monitoring data for these waterbodies, the Los Angeles Water Board has concluded that discharges from the permittees' MS4 to these waterbodies are not, or may not, be able to consistently comply with the limits for bacteria.</p> <p>Pursuant to Part VI.E.4 of the LA County MS4 Permit, when permittees anticipate that additional time is necessary to comply with final numeric limits where the final compliance deadlines have passed, they may request a TSO for the Board's consideration. A TSO establishes a detailed time schedule of specific actions the discharger(s) must take in order to correct or prevent a violation of permit requirements.</p> <p>California Water Code section 13385(j)(3) exempts violations of an effluent limit from mandatory minimum penalties when the discharge is in compliance with a TSO issued pursuant to Section 13300, <i>if all of the</i></p>	

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			<i>[specified] requirements are met</i> (emphasis added).	
6.2	Joyce Dillard	<p>FINAL BASIN PLAN AMENDMENT Report of March 19, 2013 states:</p> <p>Source Analysis The major contributors of flows and associated bacteria loading to Ballona Creek and Estuary, are dry- and wet-weather urban runoff discharges from the storm water conveyance system. Run-off to Ballona Creek is regulated as a point source under the Los Angeles County MS4 Permit, the Caltrans Storm Water Permit, and the General Construction and Industrial Storm Water Permits.</p> <p>What is the status of the General Construction and Industrial Storm Water permits? Has data been reviewed to indicate a source point problem?</p>	The State Water Board, not the Los Angeles Water Board, issues the General Construction Storm Water Permit and the General Industrial Storm Water Permit. The status of these permits is outside the scope of this action to consider adoption of a TSO related to the LA County MS4 Permit. The TSO only addresses discharges of bacteria from <i>municipal</i> separate storm sewer systems regulated by the LA County MS4 Permit, not discharges from industrial facilities or construction sites. Therefore, data from these permits were not reviewed.	None
6.3	Joyce Dillard	<p>FINAL BASIN PLAN AMENDMENT Report of March 19, 2013 states:</p> <p>In addition to these regulated point sources, the Ballona Estuary receives input from the</p>	Del Rey Lagoon is a <i>nonpoint source</i> to Ballona Estuary and, as such, is not regulated by the LA County MS4 Permit. The LA County MS4 Permit only regulates <i>point source</i> discharges from MS4s. Therefore, the impact of discharges from Del Rey Lagoon on Ballona Estuary is outside the scope of this action to consider a	None

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		<p>Del Rey Lagoon and Ballona Wetlands through connecting tide gates.</p> <p>Preliminary data suggest that the Ballona Wetlands are a sink for bacteria from Ballona Creek and it is therefore not considered a source in this TMDL. Inputs to Ballona Estuary from Del Rey Lagoon, are considered non-point sources of bacterial contamination. This waterbody may be considered for a natural source exclusion if its contributing bacteria loads are determined to be as a result of wildlife in the area, as opposed to anthropogenic inputs. The TMDL will require a source identification study for the lagoon in order to apply the natural source exclusion.</p> <p>Other nonpoint sources in Ballona Creek and Estuary include natural sources from birds, waterfowl and other wildlife. Data do not currently exist to quantify the extent of the impact of wildlife on bacteria water quality in the Estuary.</p>	<p>TSO.</p> <p>Nevertheless, in response to the commenter’s questions, to be eligible for a natural source exclusion, which would allow some exceedances of bacteria water quality objectives resulting from natural sources, a source identification study of the lagoon would be required. The Los Angeles Water Board has not received any source identification study for Del Rey Lagoon; therefore, the Board has not considered a natural source exclusion for the lagoon. This is discussed in the Staff Report to the June 7, 2012 Reconsideration of the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL.</p> <p>Although a source identification study has not been performed, monitoring for bacteria is conducted weekly by the City of Los Angeles at the Del Rey Lagoon tide gate (monitoring location BCB-9). Monitoring data for BCB-9 from 2009 to 2011 was summarized in the Staff Report to the June 7, 2012 Reconsideration of the TMDL. Monitoring continues to be conducted by the City of Los Angeles and data are submitted to the Los Angeles Water Board.</p>	

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		<p>What has happened since that approval to determine if natural source exclusion would be appropriate? Was data collected?</p> <p>Has the Del Rey Lagoon had a source identification study?</p>		
6.4	Joyce Dillard	<p>Since the area is subject to Methane Monitoring, has de-watering occurred in those permits or is contamination entering the system?</p>	<p>It is unclear what methane monitoring, what permits, and what system this comment is referring to. The methane zones in the vicinity of Ballona Creek are being mitigated, and the oversight of this mitigation is with the City of Los Angeles Department of Building and Safety. It is our understanding that there is no active dewatering related to the methane mitigation system. Nevertheless, methane mitigation and dewatering projects are unrelated to this TSO and are outside the scope of this board action to consider a TSO, which only pertains to discharges of bacteria from <i>municipal</i> separate storm sewer systems regulated by the LA County MS4 Permit.</p>	None
6.5	Joyce Dillard	<p>Have you contacted the Coastal Commission regarding the Unpermitted Drain into the Ballona Ecological Reserve and the discussed consequences? The attached letter dated April 11, 2014 from Andrew Willis makes it clear that this problem distracts from wetland and habitat function and</p>	<p>This comment is outside the scope of this action to consider a TSO. The April 11, 2014 letter from the California Coastal Commission, which was attached to the commenter's submittal, notes that the unpermitted drains were installed by Playa Capital LLC, the former landowner, or its predecessor-in-interest, Maguire Thomas Partners. Subsequently, ownership of the</p>	None

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		<p>the hydrological function of the area connected to the Unpermitted Drain.</p> <p>With an Unpermitted Drain inhibiting the natural hydrology, would any compliance date be reasonable before that Unpermitted Drain is removed?</p>	<p>Ballona Wetlands has been transferred to the California Department of Fish and Wildlife. These drains and any discharges of bacteria from them to Ballona Creek are not MS4 discharges regulated by the LA County MS4 Permit, or addressed by this TSO.</p> <p>Additionally, the purpose of the TSO is to compel actions to reduce discharges of bacteria from MS4s to Ballona Creek, Ballona Estuary and Sepulveda Channel. The purpose of the actions set forth in the TSO is not to restore natural hydrology.</p>	
6.6	Joyce Dillard	<p>YOU STATE:</p> <p>IMPLEMENTED WATERSHED CONTROL MEASURES</p> <p>26. City of Los Angeles: The City of Los Angeles has implemented the following pollution control measures in the Ballona Creek watershed since the effective date of the 2006.</p> <p>Ballona Watershed Bacteria TMDL:</p> <p>a. Mar Vista Recreation Center Storm Water BMP: Completed in December 2009. This project retains, treats, and beneficially uses storm water within a 243-acre drainage area.</p>	<p>Outfall monitoring is currently not a part of the monitoring performed under this TMDL. Regular outfall monitoring is expected to start in the watershed following approval of a Coordinated Integrated Monitoring Program (CIMP). Los Angeles Water Board staff has made comments on a draft CIMP submitted by the Ballona Creek Watershed Management Group, which includes the City of Los Angeles. The deadline for submitting the revised CIMP to the Los Angeles Water Board is July 2, 2015.</p> <p>Therefore, outfall monitoring data were not reviewed during the development of this TSO; however Los Angeles Water Board staff has requested that the City of Los Angeles submit any available monitoring data related to this site and the Westside Park Rainwater Irrigation</p>	None

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		<p>b. Westside Park Rainwater Irrigation BMP: Completed in August 2011. This project retains, treats, and beneficially uses urban runoff within a 5,000-acre area...</p> <p>We know of no data released on Mar Vista Recreation Center Stormwater BMP since its completion in November 2010 at a cost of \$4,556,186.</p> <p>Please provide your analysis of data of outfall monitoring before and after the installation and the impact on the TMDL.</p>	<p>BMP.</p> <p>The Mar Vista Recreation Center Stormwater BMP involves the diversion and treatment of urban runoff, as well as the beneficial use of treated runoff for irrigation.</p> <p>Treatment of runoff prior to its discharge to a storm drain reduces pollutant concentrations to support achieving water quality objectives. Onsite retention of runoff eliminates a portion of the discharge (and any associated pollutants) to the receiving water. Both the Mar Vista Recreation Center BMP and Westside Park BMP are expected to reduce loading of bacteria, as well as other pollutants, to Ballona Creek, and are thereby in line with the TMDL.</p>	
6.7	Joyce Dillard	<p>We know of no data released on Westside Park Rainwater Irrigation since its completion in August 2011 at a cost of \$8,304,589.</p> <p>Please provide your analysis of data of outfall monitoring before and after the installation and the impact on the TMDL.</p>	<p>See response to Comment No. 6.6.</p> <p>This BMP is a multi-benefit project, which includes recreation features in addition to its water quality function. The BMP involves the diversion, treatment, and beneficial use of urban runoff for irrigation. Excess irrigation water is discharged to the MS4.</p>	None
7.1	Los Angeles Waterkeeper and Heal the Bay	<p>Just as with all TMDLs included in the 1999 Consent Decree, our goal for the Bacteria TMDL has been not only to establish the TMDL, but to also implement it as quickly as possible in</p>	<p>The Los Angeles Water Board shares the commenter's goal of implementing the bacteria TMDL as quickly as possible to ensure that all point and nonpoint sources discharging into Ballona Creek and Ballona Estuary meet TMDL</p>	None

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		<p>order to ensure all point and non-point sources discharging into Ballona Creek and Estuary meet TMDL requirements and come into compliance with water quality standards. The Tentative Ballona Creek TSO will not achieve this goal and will in fact unjustifiably prolong the degradation of Ballona Creek and Estuary exposing the public to the well-known harms associated with fecal bacteria pollution. As discussed below, Heal the Bay and Los Angeles Waterkeeper do not support the TSO and ask the Regional Board to deny the TSO applications.</p>	<p>requirements, leading to attainment of water quality standards in the receiving waters. A TSO in this matter is justified, as described in the TSO and in the detailed responses below. The schedule of actions in the TSO is as short as possible taking into account the actions the Permittees will be taking to achieve compliance with permit requirements. See more detailed responses, below, regarding the need for additional time as provided by the TSO.</p>	
7.2	Los Angeles Waterkeeper and Heal the Bay	<p>Although the [TMDL] Implementation Plans identify the needed steps to bring MS4 Permittees into compliance with final dry weather WLAs, TMDL monitoring data collected from 2009-2014 shows a general trend toward increased exceedances of bacteria limits.</p> <p>Unsurprisingly, Permittees have failed to meet the TMDL dry weather WLAs expressed as allowable exceedance days by the April 27, 2013 deadline and now request a TSO.</p>	<p>Regarding the commenter's observations regarding trends, not all monitoring sites indicate a trend toward increased exceedances. Based on an evaluation of monitoring data from 2009-2013, only two sites in the estuary, BCB-6 and BCB-7, showed an increase in exceedance frequencies in the summertime between 2009 and 2010. From 2010-2013, exceedance frequencies at these two sites and the other estuary sites, during the summertime, have been relatively constant. Exceedance frequencies at estuary sites in the wintertime have also been relatively constant from 2009-10 to 2013-14. For freshwater sites, only two of the five sites show a clear trend toward increasing exceedance frequencies from 2010-2013.</p>	None

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			<p>The data indicate that significant decreases in exceedance frequencies are still needed at all sites, which is the impetus for the Permittees' requests for a TSO to allow time to implement actions.</p> <p>Permittees have utilized these monitoring data to re-evaluate the actions needed to achieve the final dry weather WLAs. This was necessary because the 2009 TMDL Implementation Plans were not informed by monitoring data from each reach and tributary. This is because TMDL monitoring began on June 25, 2009 after approval of the TMDL Coordinated Monitoring Plan, and the TMDL Implementation Plans were due to the Board just 4-5 months after monitoring began.</p> <p>Regarding the commenter's statement that it is unsurprising that the Permittees have not met the WLAs, under the Clean Water Act, TMDLs are not self-implementing (and neither are the actions identified in TMDL Implementation Plans developed by responsible agencies after a TMDL is in effect), meaning that neither the Los Angeles Water Board nor USEPA can <i>directly</i> enforce implementation of a TMDL. A TMDL thus does not, by itself, prohibit any conduct or require any actions. Rather, a TMDL forms the basis for further administrative actions that may</p>	

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			<p>require or prohibit conduct. Accordingly, while the TMDL became effective on April 27, 2007, the TMDL did not become enforceable until provisions implementing the TMDL were included in the 2012 LA County MS4 Permit. At that time, consistent with the TMDL implementation schedule, permittees were required to achieve compliance with the TMDL provisions included in the permit by April 27, 2013.</p> <p>Although the TMDL provisions did not become enforceable until they were included in the LA County MS4 Permit, the permittees that were assigned wasteload allocations in the TMDL did take early actions towards achieving the TMDL's goals. Some of these actions are identified in Findings 26 to 32 of the TSO.</p>	
7.3	Los Angeles Waterkeeper and Heal the Bay	While we acknowledge the efforts Permittees in the Ballona Creek Watershed have made up to this point to meet the requirements of the Bacteria TMDL, these efforts fall short of those outlined in the Ballona Creek Bacteria TMDL Draft Implementation Plans. The two major projects identified to treat 88 percent of the watershed for the Ballona Creek Jurisdictional Group were not constructed. Similarly, Los Angeles County's efforts towards achieving compliance with the Bacteria	<p>See response to Comment No. 7.2.</p> <p>A TSO is a type of enforcement order. Through this TSO, the Board is requiring the Permittees to bring their MS4 discharges into compliance as quickly as possible, given the current circumstances. Although the Permittees have requested a TSO, the TSO sets forth the actions the Permittee(s) must take to address actual or threatened discharges of waste in violation of permit requirements. Some of these actions are BMPs proposed in the 2009 TMDL Implementation Plans, while others are BMPs</p>	None

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		<p>TMDL have also been inexplicably slow and ineffective. In fact, Los Angeles County, who failed to propose any structural BMPs in their Draft Implementation Plan, is now, 8 years after the TMDL became effective, proposing for the first time in their TSO request a Dry-Weather Low Flow Reconnaissance Study which would outline possible structural BMPs.</p>	<p>that have been identified since the TMDL Implementation Plans were submitted based on a re-evaluation of the number and types of BMPs needed to achieve the TMDL WLAs based on new monitoring data and other information.</p> <p>The County’s Draft Implementation Plan was developed to address multiple pollutants, including bacteria, and included both nonstructural and structural BMPs. Structural BMPs focused on addressing pollutant loading during wet weather conditions and included an infiltration basin at Ladera County Park, a detention basin at West Los Angeles Community College, bioretention BMPs along a County road, and bioretention BMPs on individual public parcels.</p> <p>Since submittal of the Draft Implementation Plan, the County has performed geotechnical investigations and a hydrology study for the Ladera County Park project and is expecting to start construction on a Slauson Avenue Revitalization green streets project in Spring 2016. An additional green streets project along La Tijera Boulevard is also being planned.</p> <p>Based on the County’s quantitative evaluation of BMPs in its Draft Implementation Plan, it concluded that runoff reduction and direct source control would be most effective at</p>	

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			reducing exceedances of bacteria objectives. As a result, the County's plan targeted reductions in irrigation runoff as a key nonstructural BMP to address bacteria.	
7.4	Los Angeles Waterkeeper and Heal the Bay	Moreover, a TSO is unjustified where, as here, Permittees have failed to secure the timely funding for projects included in their Implementation Plans despite being aware since 2006 or 2007 that they must comply with Bacteria TMDL waste load allocations by April 27, 2013. For example, the City of Los Angeles only applied for Clean Beach Initiative Funding for LFTF-1, which would treat roughly 70 percent of the watershed, in August 2012 and funding commitments have still not been finalized.	See response to Comment Nos. 7.2 and 7.3.	
7.5	Los Angeles Waterkeeper and Heal the Bay	Finally, the Tentative Ballona Creek TSO unjustifiably extends the deadline to comply with final dry weather TMDL WLAs by four-and-a-half years and allows exceedances in 92% of the samples in some cases. This essentially ignores and accepts a continued risk of serious public health impacts from discharges of fecal indicator bacteria into Ballona Creek and Estuary and rewards the little progress that has been made over the last nine years since	See response to Comment No. 7.2. The TSO does not extend or alter the deadlines in the TMDL or the LA County MS4 Permit. A TSO is issued pursuant to state law and does not modify any provisions of a TMDL or NPDES permit. The TSO is an enforcement order that includes a detailed time schedule of specific actions the permittees must take in order to correct or prevent a violation of permit requirements. The Board has determined that the 4½-year time schedule is justified and is as	None

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		original TMDL adoption. Surely this outcome is not in the public interest and must not be allowed.	<p>short as possible taking into account the actions the permittees will be taking to achieve compliance with permit requirements.</p> <p>Similar to other TSOs, the interim dry weather limits are derived as the 95th percentile estimates based on the previous five years of data. Therefore, they take into account the elevated exceedance rates currently existing within the watershed.</p> <p>Lastly, the TSO does not ignore or accept a continued risk to public health, but rather it lays out an aggressive schedule of actions that the Permittees must abide by to reduce exceedances and protect public health.</p>	
7.6	Los Angeles Waterkeeper and Heal the Bay	We understand that TSOs can be a valuable tool for the shared goal of attainment of receiving water limitations; however, we believe that these should be used sparingly and in cases where it is clear that a good faith effort, including efforts to secure funding from all available sources and revise BMPs where monitoring data shows they are failing, has been made by Permittees. This, however, is not the case with the Tentative Ballona Creek TSO as outlined in more detail below.	As a general matter, the Porter-Cologne Water Quality Control Act (e.g., Water Code sections 13300, 13308, and 13385(j)(3)) expressly authorizes a regional board to issue TSOs in cases where a discharge of waste is taking place or threatening to take place that violates or will violate board requirements. While issuance of a TSO is at the discretion of a regional board, there is no indication by the California Legislature that TSOs for receiving water limitations “should be used sparingly” or only “in cases where it is clear that a good faith effort, including efforts to secure funding from all available sources and revise BMPs where monitoring data shows they are failing, has been	None

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			<p>made by Permittees.” For example, TSOs in accordance with Water Code section 13385(j)(3) for effluent limit violations may be issued for up to five years. A showing that a discharger is making diligent progress toward compliance with the effluent limit is not required unless and until the regional board extends the time schedule for a period not exceeding an additional five years. There are no similar provisions for TSOs for receiving water limitations.</p> <p>The Los Angeles Water Board carefully considered the Permittees’ requests and the need for the TSO as well as the shortest amount of time needed to implement the action in the TSO. Issuance of a TSO in this matter is entirely consistent with the Water Code as this TSO includes several milestones related to structural BMPs that would address discharges of bacteria during dry weather in as short amount of time as possible. Under the TSO, the Permittees must complete these milestones.</p>	
7.7	Los Angeles Waterkeeper and Heal the Bay	<p>The Tentative TSO Is Unjustified Because the Permittees Have Not Demonstrated That They Have Engaged in Diligent Efforts to Achieve Compliance with the Ballona Creek Dry Weather Bacteria TMDL by the April 27, 2013 Deadline</p> <p>...</p>	<p>See response to Comment Nos. 7.2, 7.3, 7.5, and 7.6.</p> <p>As required by Part VI.E.4.d of the LA County MS4 Permit, the Permittees have provided a list of structural controls and source control efforts, since the effective date of the TMDL, to reduce the bacteria pollutant load in the MS4 discharges.</p>	None

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		<p>As outlined in the Tentative TSO, however, the majority of the efforts undertaken by some of the Permittees, including City of Beverly Hills, the County of Los Angeles and the Los Angeles County Flood Control District, appear to consist of measures that are not specifically directed at addressing bacteria source reductions, such as street sweeping, litter pick up and trash BMPs maintenance, and public education and outreach measures. In addition, programs proposed in the County Implementation Plan do not appear to have been implemented, such as those that address irrigation flows which were identified as a major source of dry weather flow bacteria pollution. Several Permittees identify implemented watershed control measures, which are used for justification of the TSO, that are 2012 Los Angeles County MS4 Permit requirements (e.g. Storm Water Management Program Minimum Control Measures); these programmatic BMPs should not be used to justify TMDL final compliance extensions because Permittees were aware that compliance with Bacteria TMDL WLAs</p>	<p>The commenters state that many of the efforts cited by the County, LACFCD and Beverly Hills are not specifically directed at addressing bacteria. However, control measures such as street sweeping, litter pick up, and catchbasin inserts, indirectly address bacteria by preventing trash and organic matter from accumulating in catchbasins where it may act as an incubator for bacteria regrowth. Implementing BMPs that address multiple pollutants is an efficient approach given the multiple TMDLs applicable to the Ballona Creek Watershed, and is consistent with the County's Draft Implementation Plan, which was explicitly developed to address multiple pollutants in the Ballona Creek Watershed.</p> <p>Additionally, while the Permittees reported on implementation of nonstructural control measures as described above -- some of which are included as Storm Water Management Program Minimum Control Measures (MCMs) in the 2012 LA County MS4 Permit -- in their TSO requests, they primarily base their requests on the need for additional time to secure funding for and then construct large-scale structural control measures, not on the need for additional time to implement these MCMs.</p> <p>Where Permittees have implemented structural</p>	

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		<p>was required long before the 2012 MS4 Permit was adopted. Further, no information is provided as to the effectiveness of the BMPs that were implemented in reducing bacteria loading and, in fact, monitoring data collected under the TMDL monitoring plan show these and other BMPs have not actually reduced the number of exceedance days.</p>	<p>BMPs, such as the Mar Vista Recreation Center Storm Water BMP and Westside Park Rainwater Irrigation BMP, the Los Angeles Water Board has requested performance data for these watershed control measures.</p>	
7.8	Los Angeles Waterkeeper and Heal the Bay	<p>Permittees themselves in cities' Draft Implementation Plan include implementation schedules for LFTF-1 and LFTF-2, yet it appears from review of the Tentative Ballona Creek TSO that these projects merely consist of concept reports, with no planning or design work completed. Both of these projects were supposed to be completed by the April 27, 2013 dry weather Bacteria TMDL final compliance deadline. The Tentative Ballona Creek TSO further states that LFTF-2 as described in the Implementation Plans was found to be infeasible, however it is unclear how long ago LFTF-2 was deemed infeasible and whether there would have been time to locate and implement an alternative project to replace LFTF-2. In addition, based on the analysis in the</p>	<p>See response to Comment No. 7.2.</p> <p>The TSO puts the Permittees on a clear, specific, and enforceable schedule of actions, which includes construction of LFTF-1 and LFTF-2, to address dry weather discharges of bacteria.</p> <p>Although the LFTF-1 and LFTF-2 projects were identified previously, the Permittees have indicated that securing funding for these large-scale projects has been a challenge. Concept reports were completed in 2013 for both projects. In the case of LFTF-1, the necessary CEQA analysis and documentation is complete, and pre-design is underway.</p> <p>The LFTF-2 facility serves Sepulveda Channel, which in addition to being a tributary to Ballona Creek, is subject to its own reach-specific effluent and receiving water limitations. The</p>	None

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		Implementation Plan, it is not clear that LFTF-2 would be absolutely necessary to meet the overall bacteria load reduction goals in the Watershed, therefore the infeasibility of this project cannot serve to justify the delay in implementing the Ballona Bacteria TMDL and cannot serve as a basis for approving the Tentative Ballona Creek TSO.	Sepulveda Channel bacteria TMDL monitoring location (BCB-4) averaged 39 annual dry weather exceedance days of single sample objectives from 2009-2014. Based on this data evaluation, it is clear that measures, structural and non-structural, are needed to address bacteria loading from the Sepulveda Channel subwatershed. Therefore, the delay related to the infeasibility of LFTF-2 as initially proposed, and the delay related to identifying a feasible project for the Sepulveda Channel subwatershed, is a reasonable justification for the need for the TSO.	
7.9	Los Angeles Waterkeeper and Heal the Bay	The Tentative TSO states that one justification for its issuance is that the analysis in the City's 2009 Draft Implementation Plan needs to be refined to address bacteria limits in specific reaches of the Ballona Creek Watershed. Given that the TMDL had specific WLAs for listed reaches, this cannot be justification for a TSO. The County's TSO request proposes a low flow reconnaissance study as well as structural controls, without a clear explanation as to why these measures were not proposed as part of the 2009 Draft Implementation Plan. These proposals simply imply that the submitted Implementation Plans were not adequate and that the County and the Flood Control District have in fact	<p>See response to Comment Nos. 7.2, 7.3, and 7.7.</p> <p>The justification regarding Draft Implementation Plan refinement is based on the fact that the Permittees now have monitoring data available through the Coordinated Monitoring Plan (CMP), which was not available when the Draft Implementation Plan was prepared. The availability of reach-specific monitoring data better directs Permittees in developing and locating effective BMPs that would ensure compliance with reach-specific wasteload allocations given current water quality conditions in each reach. Based on this, it is understandable that refinement of the 2009 analysis is needed.</p> <p>With respect to the County, the TSO puts the County on a clear, specific, and enforceable</p>	None

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		<p>failed to develop and take measures specifically designed to address bacteria dry weather pollution in Ballona Creek and meet Bacteria TMDL WLAs. Thus, the County has not made a diligent attempt to comply with the Ballona Bacteria TMDL by the April 27, 2013 deadline. Once again, this failure to comply cannot provide justification for the Tentative Ballona Creek TSO.</p>	<p>schedule to identify and control dry weather discharges from their unincorporated areas and their MS4 that contribute to bacteria loading. This is the best strategy to ensure that implementation actions for this TMDL are undertaken as quickly as possible, and to enforce the LA County MS4 Permit.</p>	
7.10	Los Angeles Waterkeeper and Heal the Bay	<p>Finally, no information is provided about any efforts undertaken by Permittees to secure funding necessary to comply with the TMDL provisions and implement LFTF-1 or LFTF-2. Instead, Permittees simply state that they “lack ... sustainable funding source.” Without documents or information to substantiate it, this statement cannot provide the necessary justification for the TSO. Furthermore, it is unclear when Permittees first initiated efforts to fund LFTF-1 or LFTF-2; Clean Beach Initiative funding under Proposition 40, Proposition 50, and Proposition 84 was not requested for LFTF-1 until April 23, 2012, only one year before the final dry weather bacteria TMDL WLA was supposed to be met. Applying for funding one year</p>	<p>See response to Comment Nos. 7.2 and 7.6. As noted previously, the TSO puts the Permittees on a clear, specific, and enforceable schedule to implement these BMPs. This is the quickest approach to ensure that these projects will have funding and be implemented, such that permit requirements will be achieved in the Ballona Creek Watershed.</p>	None

Comment No.	Commenter	Comment	Response	Change Made
		prior to a TMDL final compliance date does not exemplify a good faith effort.		
7.11	Los Angeles Waterkeeper and Heal the Bay	<p>The Tentative TSO Is Unjustified Because It Requires Permittees to Implement BMPs That Were Already Included In the Implementation Plans.</p> <p>Perhaps the most important reason why the TSO is unjustified is the fact that its main directive to Permittees is to implement the LFTF-1. As already discussed, LFTF-1 was envisioned by the 2009 Ballona Creek Jurisdictional Group’s Implementation Plan and no specific information is provided as to why this treatment system was not installed by the TMDL deadline. Again, failure to implement BMPs proposed by Permittees’ themselves without any demonstration that good faith efforts were undertaken to comply with TMDL deadlines in light of monitoring data showing a clear trend toward increased exceedances cannot not serve as a basis to extend deadlines even further and deprive the public of the protections it is entitled to under the TMDL and the Clean Water Act.</p>	See response to Comment Nos. 7.2, 7.3, 7.5, 7.6, and 7.8. As previously noted, some of the actions in the TSO are BMPs that were proposed in the 2009 TMDL Implementation Plans, while others are BMPs that have been identified since the TMDL Implementation Plans were submitted based on a re-evaluation of the number and types of BMPs needed to achieve the TMDL WLAs.	None

Comment No.	Commenter	Comment	Response	Change Made
7.12	Los Angeles Waterkeeper and Heal the Bay	<p>Low Flow Diversion to Sanitary Sewer Alternative</p> <p>The Tentative Ballona Creek TSO would allow the City of Los Angeles the option to divert in-stream flow in Ballona Creek to the sanitary sewer at or downstream of the proposed LFTF-1 location to serve as an alternative control measure to comply with dry weather bacteria requirements. It is unclear if any flow would be re-introduced downstream of this sanitary sewer diversion. Is the Tentative Ballona Creek TSO proposing to remove all dry weather flow? Would there be any flow left in Ballona Creek to support the its other beneficial uses? This approach is unclear, and in the absence of any details, we ask the Regional Board not to approve the TSO with this option.</p>	<p>The Low Flow Diversion to Sanitary Sewer Alternative is an alternative (diverting to the sanitary sewer) that has been identified by the City of Los Angeles as a more certain and economical alternative to the LFTF-1 urban runoff treatment facility.</p> <p>This diversion alternative would ensure that the dry weather urban runoff is not contributing to downstream pollutant loading (for bacteria as well as other pollutants) because it would be permanently diverted to the sanitary sewer. This is in contrast to the urban runoff treatment facility (LFTF-1), which would rely on the addition of chlorine to treat bacteria in the runoff prior to reintroducing the water downstream of the facility.</p> <p>The TSO does not explicitly or implicitly approve this diversion alternative; however, the TSO does allow the City to further evaluate this alternative, as opposed to simply mandating the construction of the urban runoff treatment facility, LFTF-1.</p> <p>Through the City’s evaluation of this diversion alternative, the details of a potential diversion and any potential impacts to beneficial uses would be considered.</p> <p>Any feasible diversion for which the City would</p>	None

Comment No.	Commenter	Comment	Response	Change Made
			follow the TSO's "Schedule B" may require permits from the Los Angeles Water Board and/or other agencies.	
7.13	Los Angeles Waterkeeper and Heal the Bay	In conclusion, for all the reasons discussed above, the Tentative TSO is unjustified and we ask the Regional Board to reject it. At a minimum, the term of the Tentative TSO should be significantly shortened to two-and-a-half years. Allowing more time to Permittees to conduct belated source studies and implement BMPs that were identified six years ago is unwarranted and will set a precedent for other TMDL-based provisions in the 2012 LA MS4 Permit. The Regional Board must protect public health and ensure that TMDLs, which take a lot of time and effort to develop, will be implemented to protect the Los Angeles region's waterways. The way to accomplish this is by steadfastly maintaining TMDL deadlines.	See response to Comment Nos. 7.1-7.12. Part VI.E.4 of the LA County MS4 Permit allows Permittees to request a TSO from the Regional Water Board where they need additional time to comply with final effluent limitations and/or receiving water limitations. The 4½-year term of the TSO is reasonable, but aggressive, given the type and scale of structural control measures to be implemented, including but not limited to LFTF-1 and LFTF-2. The Los Angeles Water Board is committed to protecting public health and ensuring that TMDLs are implemented and finds a TSO to be the most expeditious means to achieve these outcomes, given the circumstances.	None