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June 23, 2014

Mr. Samuel Unger, Executive Officer
Los Angeles Regional Water Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Via email: samuel.unger@waterboards.ca.gov; losangeles@waterboards.ca.gov

Re: Comments on Tentative Time Schedule Order No. R4-2014-XXXX for Discharges of Bacteria During Dry Weather to the Back Basins of Marina Del Rey Harbor and Marina Beach Prescribed in Order R4-2012-0175 (NPDES Permit No. CAS004001)

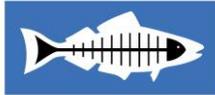
Dear Mr. Unger,

On behalf of Heal the Bay, a non-profit environmental organization with over 15,000 members dedicated to making Southern California coastal waters and watersheds safe, healthy, and clean for people and aquatic life, we submit the following comments regarding Tentative Time Schedule Order No. R4-2014-XXXX ("Tentative TSO") for discharges of bacteria during dry weather to the back basins of Marina del Rey Harbor and Marina Beach as prescribed in Order R4-2012-0175.

The Marina del Rey Harbor Mothers' Beach and Back Basin Bacteria TMDL ("TMDL") was originally adopted 11 years ago, with a compliance date for summer and winter dry weather of March 18, 2007. We acknowledge that Los Angeles County, Los Angeles County Flood Control District, and City of Los Angeles ("responsibly entities") have conducted studies and implemented several projects to improve water quality in the Marina del Rey back basins; however, data still shows a large numbers of waste load allocation exceedances. Therefore, public health continues to be placed at risk.

In general, Heal the Bay does not support the issuance of TSOs for past-due compliance schedules in TMDLs, especially in situations where Permittees have been out of compliance for a lengthy period of time (in this case, nearly seven years). We articulated our concerns with compliance schedules for TMDLs in a petition submitted to the State Water Resources Control Board on December 10, 2012 regarding the Los Angeles County Municipal Separate Storm Sewer System NPDES Permit (Order No. R4-2012-0175, NPDES Permit No. CAS004001). Moreover, implementing a TSO at a continually polluted location sets a negative precedent and disincentive for dischargers to take the measures needed to meet state bacteria standards and protect public health in a timely manner.

We are concerned that the Regional Board is proposing an additional 3.5 years to meet public health standards for dry weather (a total of over 10 years past the original compliance deadline) and weak interim waste load allocations in the Tentative TSO, as this will allow prolonged impacts to designated beneficial uses (Rec-1). Allowing an additional 3.5 years to meet public health standards is inappropriate and not protective of human health. Of note, the recently adopted Inner Cabrillo Beach Bacteria TMDL TSO was only granted 2.5 years additional time for compliance. What was the reasoning for the additional time in this case? What assurances does the public have that public health standards will be met in 3.5



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years, when the last 11 years have resulted in little improvement? Further, we are not convinced that 3.5 years is as short as possible to comply with final receiving water limitations. For instance, why can't parking lot 9 and Marina del Rey Library parking lot projects be completed in a more expedited fashion? Why were these projects not pursued over the past 11 years? We suggest, at a minimum, the TSO timeframe be shortened. Additionally, if the Regional Board grants a TSO, we urge the Board to include a requirement for permanent beach postings at Mothers' Beach identifying human health risks associated with high bacteria counts. Placing permanent signage would help educate the public on the human health risks associated with water contact recreation at Mothers' Beach over the duration of the TSO.

The Tentative TSO outlines required watershed control measures for responsible entities for compliance with TMDL waste load allocations. Was any modeling conducted showing these control measures will help achieve compliance? We are also concerned that several of the projects that have been implemented have not received the proper operation and maintenance and suggest that specific operation and maintenance requirements be inserted into the TSO to assure that implemented projects/devices are functioning properly. For instance, it was reported that the mechanical circulation devices at Mothers' Beach were not in operation for nearly a year from April 2013 to February 2014. This is unacceptable; how can we be sure that this will not happen again in the future? Furthermore, bird deterrent devices were non-functional during an extended period earlier this year due to vandalism. These implemented control measures are critical for reducing bacteria concentrations in Basin D; having these measures offline for an extended period of time places the public at risk for gastrointestinal illness, skin rashes, ear infections, and other ailments associated with high bacteria counts. Specific operations and maintenance requirements in the TSO, such as the development of an operations and maintenance plan, would help to ensure control measures are fixed in a timely fashion and reduce human health risks.

In summary, adopting the Tentative TSO would allow for a 10 year delay in compliance and continue to place public health at risk. While we acknowledge that responsible entities have taken steps to achieve final waste load allocations, these efforts have not all aligned with the adopted TMDL compliance schedule. At a minimum, we believe the Tentative TSO could be strengthened to better protect beneficial uses by 1) shortening the duration of the TSO; 2) requiring permanent signage at the beach locations; and 3) requiring an operations and maintenance plan. We ask the Regional Board to proceed with caution in issuing the Tentative TSO for the Marina del Rey Harbor Mothers' Beach and Back Basin Bacteria TMDL, and at a minimum, make the suggested changes described above.

If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for consideration of this comments.

Sincerely,

A handwritten signature in black ink that reads "Peter Shellenbarger".

Peter Shellenbarger, MESM
Science and Policy Analyst, Water Quality

A handwritten signature in black ink that reads "Kirsten James".

Kirsten James, MESM
Science and Policy Director, Water Quality