



1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
fax 310 496 1902

info@healthebay.org
www.healthebay.org

March 15, 2012

Kurt V. Berchtold, Executive Officer
Regional Water Quality Control Board
Santa Ana
3737 Main Street, Suite 500
Riverside, California 92501

Re: Basin Plan Amendments to Revise Recreation Standards for Inland Fresh Surface Waters in the Santa Ana Region

Dear Mr. Berchtold,

On behalf of Heal the Bay, we submit the following comments on *Basin Plan Amendments to Revise Recreation Standards for Inland Fresh Surface Waters in the Santa Ana Region* (“Draft Amendment”) issued by the Santa Ana Regional Water Quality Control Board (Regional Board) for public review on January 12, 2012. We focus our comments on the proposals as described in the Executive Summary only, due to time constraints. We appreciate staff’s willingness to include our comment letter in the record and in Board materials despite being submitted past the original response deadline.

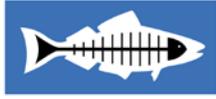
Our overarching concern with these proposals is that human health will not adequately be protected. This concern is discussed in more detail below, and our comments follow the outline of the Executive Summary.

#1. Rename the REC1 use from “Water Contact Recreation” to “Primary Contact Recreation.”

We echo USEPA’s concern expressed in their February 23, 2012 comment letter that renaming the REC1 use would be inconsistent with the State Water Resources Control Board’s definition that was developed through an extensive process. Thus, we urge the Regional Board to retain the current definition.

#2. Delete the current Basin Plan fecal coliform objectives and replace with *E. coli* objectives.

We concur with Regional Board’s general finding that fecal coliform objectives be replaced by *E. coli* objectives. However, we are extremely concerned by the proposal to require at least 5 samples over a 30 day period. Instead, the Basin Plan should specify that a *rolling* geometric mean be calculated based on five samples collected over the last thirty days or the five most recent samples. As shown in the Regional Board’s data analysis, there are many instances where only four samples were collected in a 30 day period. This would lead to no geometric mean



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calculation, therefore putting the public's health at risk. Not having a geomean calculation is problematic because it helps to reveal chronic pollution problems.

In addition, the Regional Board must include a single-sample limit of *E. coli* density of 235/100 ml. The single sample is critical for both public health protection and compliance purposes. There is no justification as to why this criterion is absent in the proposal.

#3. Establish a narrative pathogen objective

It is unclear why the Regional Board would propose a narrative pathogen objective. The numeric recreational water quality criteria are based on health impacts. These numeric criteria should be sufficient to protect public health.

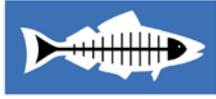
#4 and #5. Sub-divide REC1 standards into tiers based on intensity of use

We urge the Regional Board to reject the proposal of a tiered approach based on intensity of use. Each individual who recreates in a waterbody should be afforded the same public health projection, regardless of how many "fellow swimmers" are utilizing the same waterbody. In fact USEPA recognizes the flaw with the tiered approach in the proposed Recreational Water Quality Criteria (Office of Water 820-D-11-002). USEPA states that "the 2012 RWQC are no longer recommending multiple "use intensity" values, in an effort to increase national consistency across bodies of water and ensure equivalent public health protection in all waters." (Criteria at 4). Thus, one set of standards based on the same health protection is appropriate.

In addition, we are concerned with the Regional Board's assessment that the single sample value is for posting purposes only and that insufficient data may exist for the geomean calculation. Both the single sample and the geomean standards play an important role in public health protection and compliance assurance. The Regional Board cannot simply decide to use one or the other. Any derivation of the single sample or geomean from default values are a standards change and would be subject to EPA approval. Both standards must be used, and a sufficient number of samples should be taken for the geomean calculation (the five most recent samples or five samples collected over the last 30 days).

#6. Temporary suspension of bacteria objectives

The term "high flow suspension" is very misleading. Did the Regional Board collect flow data over an extended period of time in the waterbodies proposed for temporary suspension of bacteria objectives? Without proper rain gauges on a specific waterbody, it is impossible to know if the flow is truly significantly elevated. Simply relying on nearby (or regional) rain gauge data is not sufficient to understand the flow regime. Given the lack of understanding about flow, it is impossible to predict when individuals could be recreating in a waterbody. People who swim or surf in wet or winter weather are entitled to the same health protections and water



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quality standards as those that swim at beaches during the Fourth of July. Also the State Water Board made this determination as they acknowledged that swimming and surfing are activities that occur in Southern California waters 365 days a year, rain or shine. Of note, high bacteria concentrations from upstream waterbodies could contribute to exceedances of water quality standards in downstream waterbodies. Thus we urge the Regional Board to not include a temporary suspension of bacteria objectives.

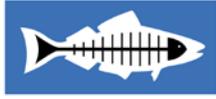
Also we echo USEPA's concerns that the definition of "modified channels" can lead to use suspension in any water body where any vegetation has been removed or had any small modifications. This is completely inappropriate.

#7. Re-designate specific waters to remove REC1 or REC1 and REC2 uses.

As this is the first Use Attainability Analysis (UAA) performed by the Santa Ana Region Board, and only second in the entire state, we are extremely concerned about the bad precedent this Basin Plan amendment sets for future dedesignation efforts throughout the state.

In fact, the proposal sets an incentive to channelize inland waters in order to dedesignate beneficial uses and have less stringent requirements. The additional regulatory incentive of dedesignation will only lead to more efforts to channelize creeks and streams to prevent flooding, rather than more ecologically friendly flood control efforts or a bioengineering approach. More natural, bioengineered approaches to flood control will likely result when beneficial use designations are maintained.

In addition, waterbodies dedesignated from a REC1 to a REC2 or complete dedesignation from water quality standards could stall restoration efforts. Millions of dollars in bond funds have been allocated to develop riparian restoration and enhancement plans and projects for many degraded waterways in the state. If efforts to improve water quality and restore riparian resources will result in tougher regulatory requirements, this will provide a tremendous disincentive for restoration and enhancement projects. The current regulatory framework provides no such incentive because the potential REC1 beneficial use exists on most of the receiving waters that are the focus of dedesignation efforts. Modification of the current Basin Plan beneficial uses could result in the unintended consequence of providing a disincentive to the many long-overdue restoration efforts of urban creeks and rivers. Also, one can easily see how this creates an incentive for resource management agencies to limit access to the very resources the Regional Board is trying to protect. For example, why would a resource management agency put in a new bike path segment along a concrete lined receiving water if the beneficial action would lead to tougher regulatory requirements?



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The Regional Board states that dedesignated waters would be reviewed at least once every three years during the Triennial Review process. Given resource constraints, it is impossible that this review would be given the enormous amount of time needed to review all of the data and science.

#9. Delete the bacterial quality objective for MUN

How did the Regional Board determine that the waterbodies in question do not meet the threshold for MUN as described in the State Board's Sources of Drinking Water Policy? Federal regulations prohibit removal of designated uses which are existing uses, as defined in 40 CFR Sect. 130.3, unless a use requiring more stringent criteria is added. We echo USEPA's concern that documentation is lacking showing that the proposed excepted waterbodies do not have existing MUN use designations. Thus, the Regional Board should not remove this beneficial use.

In conclusion, the Regional Board's proposal has major implications on public health protection. As discussed above, many elements of the proposal will put recreators at greater risk and will not protect beneficial uses. At the same time, the proposal will likely stall restoration and water quality improvement efforts. Heal the Bay believes that the proposed Basin Plan amendment is the wrong action at the wrong time. Thus, Heal the Bay opposes the proposal as discussed above.

Comments on the four proposed UAAs are attached (see below).



ATTACHMENT ONE (04/20/2012)

UAA Comments

Santa Ana-Delhi Channel

Reach Identification

- The reaches should have been:
 - Tidal Prism: Bike Path to Mesa Dr. (earthen bottom/one side rip-rap)
 - Mesa Dr to Alton Ave. (box channel)
 - Alton Ave to Warner Ave (earthen bottom/rip-rap)
- By segmenting these reaches according to similar characteristics, such as earthen bottoms, rip-rap walls, and more natural landforms, the public has a better sense of the possibilities for each reach, in terms of water quality, habitat, and recreational uses. The UAA's segmentation of the Creek combines reaches with different characteristics, like earthen bottoms segments with box channel segments. This type of segmentation can promote certain features or attributes as being homogeneous throughout the stretch of Creek, when they are not.

Water Quality

- It is first argued that there is not enough flow: the dominant dry weather flows create perennial flow of a few inches (6 inches or less)...and sources are groundwater and urban runoff (pg7-8). Then it is argued that the region cannot attain water quality criteria during dry weather because the BMPs implemented are not sufficient (5.6.3.7.1-- pg14). Perhaps the BMPs implemented should not be treatment types, but capture and reuse or infiltration given the low flow volumes.
- There is no documentation on whether a source control/source identification program, and the subsequent source abatement program having been implemented. There is no discussion on whether a watershed approach to BMP implementation was ever adopted. No documentation on actual BMP implementation, and or performance criteria associated with those implemented BMPs. All the information associated with BMPs in this section are citations to studies on efficacy. There is no actual information highlighting any implemented BMPs, aside from diversions, in the watersheds. How can the public reasonable expect that the effort was made to control Bacteria inputs by any agency or municipality to control urban runoff or nuisance flows without such information?
- Dry weather diversions are stated as 100% effective. The rationale cited on the phone—per our conversation (04/19) was a concern for habitat. Yet, the UAA states that “treatment agencies do not like them”, and view them as a temporary practice. Which of the two responses is it? If the later, this is not a sufficient reason why bacterial objectives can't be obtained. Dry-weather, and even some wet-weather, low-flow diversions are an integral



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part in RWQCB 4 Bacterial TMDL compliance. In addition, the UAA argues that full capture is economically infeasible. This is understandable if the argument is for wet weather conditions. However, this should not be the case for dry weather time-periods and low flow events.

- Why did the RWQCB 8 use a calendar time-period to conduct its geometric mean analysis for bacteria for this UAA, when the Basin plan uses a 30-day rolling average (pg13)?
- The UAA fails to demonstrate how efforts to attain recreational water quality standards in the downstream receiving water body—currently REC 1—will not be negatively impacted by the request to remove the upstream recreational use designations—an action that will allow higher levels of indicator bacteria in the upstream tidal prism, REACH 1 and REACH 2. The REC-1 use of the downstream receiving water-body is not in question. (pg 23). If bacterial standards during dry weather in this section of the receiving water-body can't be met, then how does it figure this runoff or flow will not have a negative impact on the downstream receiving water-body?

USES

- Did RWQCB 8 solicit information from 'historic societies', local historians, or personal interviews to complete if determination of historic uses? Historic uses exploration should have included a people survey of local historians or senior citizens of the area. Personal Interviews should have been a component of this process. Simply looking on Google or electronic archives can be insufficient and incomplete due to the nature of digital archives.
- In addition, there were photos that showed 'tagging' or graffiti in portions adjacent to the Creek, which suggests that there is access. Such actions would indicate that people are able to access the areas. In RWQCB 4, 'tagging' or graffiti, while illegal, can demonstrate that access and use exist in the area.
- The OCFCD denies access due to safety concerns. As it relates to this issue of de-designation or this UAA, the argument may be applicable for wet-weather (high velocity flow) conditions, yet is completely inappropriate for dry-weather. There is little justification as to why the public should not be able to use or have access to the Creek during the 98% of time when such high-flow conditions do not exist. While there are vertical walls in segments, there is a sufficient amount of area that is covered with rip-rap. RWQCB 8 seems to make the subjective argument that even in dry-weather the Creek is unsafe in these areas (pg12) to access. This UAA fails to even discuss the statewide, and Southern California, initiatives to obtain great access to these once off-limit areas. For example, the City of Los Angeles has the lead the way in making the LA River a



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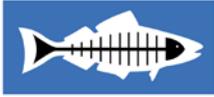
destination place for contact water recreation and public education. There are several other examples in Los Angeles County where semi-channelized waterbodies are being utilized for their non-direct recreation benefits, habitat opportunities, and public education. A number of State Conservancies and Private Non-profits are currently looking at acquiring parcels to develop greater open space opportunities for park poor regions by working with local groups. Neither the State Agencies, Non-Profit groups, nor local community groups appear to have been solicited for this review. On the State level, SB1201 (De Leon) seeks to address this issue of public access to flood control channels, engineered creeks, streams, and rivers. The bill, if adopted, will amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) “to include or provide for **public use** of navigable waterways that are suitable for **recreational and education purposes**” as they relate to the Los Angeles River. This bill is likely to set precedent for other receiving waterbodies in the State.

- The UAA appears to argue that hydro-modifications impacts are indefinite. In addition, the UAA seemed only to consider full restoration of the Creek as the only alternative. There is no discussion of partial enhancement to the Creek as a viable option. Also, this section took no account of statewide and southern California wide measures that consider these areas as important sites for implementing integrated water management opportunities, LID, and other multiple-benefit land-use policies to treat water.
- Finally, the summary of adjacent land-uses and their potential to impact water quality or the role they could play in addressing water quality issues—as they relate to the previous bullet point—are not sufficiently address. How is the public able to determine possible sources impact the Creek or evaluate opportunities for watershed-wide multiple benefit BMPs. For example, there are two large golf courses, a regional park, and a school all in located is close proximity to the Creek.

Greenville-Banning Channel

Water Quality

- First argue that there is not enough flow: the dominant dry weather flows create perennial flow of a few inches (6 inches or less)...and sources are groundwater and urban runoff (pg 7-8). Then it is argued that the region cannot attain water quality criteria during dry weather because the BMPs implemented are not sufficient (pg 16-17). Perhaps the BMPs implemented should not be treatment types, but capture and reuse or infiltration given the low flow volumes.
- Dry weather diversions are stated as 100% effective. The rationale cited on the phone—per our conversation (04/19) was a concern for habitat. Yet, the UAA states that “treatment



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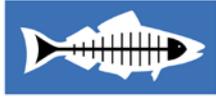
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agencies do not like them”, and view them as a temporary practice. Which of the two responses is it? If the later, this is not a sufficient reason why bacterial objectives can't be obtained. Dry-weather, and even some wet-weather, low-flow diversions are an integral part in RWQCB 4 Bacterial TMDL compliance. In addition, the UAA argues that full capture is economically infeasible. This is understandable if the argument is for wet weather conditions. However, this is should not be the case for dry weather time-periods and low flow events.

- An ‘Orange County Areawide Urban Stormwater Runoff Management Plan’ is mentioned, and a suggestion that the drainage area limits the effectiveness of many BMPs. What documents or data support this assertion? Most management plans are an iterative process, based on implemented programmatic and structural BMPs. Has this type of evaluative component been completed on actual implemented structural BMP performance and design? Beyond low-flow diversions, what other actual BMPs were installed in this watershed? What changes or modifications to those implemented BMPs were completed to address short-coming to initial BMP construction? As for programmatic BMPs, what evaluative measures were used to determine behavioral changes in municipalities (the general population), given that urban runoff is the primary bacterial source? Has enforcement been implemented in this watershed as a deterrent to urban runoff or nuisance flows in association with MS4 or NPDES compliance? (pg.16)
- There is no documentation on whether a source control/source identification program, and the subsequent source abatement program having been implemented. There is no discussion on whether a watershed approach to BMP implementation was ever adopted. No documentation on actual BMP implementation, and or performance criteria associated with those implemented BMPs. All the information associated with BMPs in this section are citations to studies on efficacy. There is no actual information highlighting any implemented BMPs, aside from diversions, in the watersheds. How can the public reasonable expect that the effort was made by any agency or municipality to control bacteria inputs from urban runoff without such information?
- Why did the RWQCB 8 use a calendar time-period to conduct its geometric mean analysis for bacteria for this UAA when the Basin plan uses a 30-day rolling average (pg11)?
- The UAA fails to demonstrate how efforts to attain recreational water quality standards in the downstream receiving water body—currently REC 1—will not be negatively impacted by the request to remove the upstream recreational use designations—an action that will allow higher levels of indicator bacteria in the upstream tidal prism, and REACH 1. The REC-1 use of the downstream receiving water-body is not in question.



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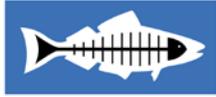
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(pg 23). If bacterial standards during dry weather in this section of the receiving water-body can't be met, then how does it figure this runoff or flow will not have a negative impact on the downstream receiving water-body?

USES

- Did RWQCB 8 solicit information from 'historic societies', local historians, or personal interviews to complete if determination of historic uses? Historic uses exploration should have included a people survey of local historians or senior citizens of the area. Personal Interviews should have been a component of this process. Simply looking on Google or electronic archives can be insufficient and incomplete due to the nature of digital archives. (Pg.21)
- This UAA fails to even discuss the statewide, and Southern California, initiatives to obtain great access to these once off-limit areas (pg 22-probable future uses). For example, the City of Los Angeles has the lead the way in making the LA River a destination place for contact water recreation and public education. There are several other examples in Los Angeles County where semi-channelized waterbodies are being utilized for their non-direct recreation benefits, habitat opportunities, and public education. A number of State Conservancies and Private Non-profits are currently looking at acquiring parcels to develop greater open space opportunities for park poor regions by working with local groups. Neither the State Agencies, Non-Profit groups, nor local community groups appear to have been solicited for this review. On the State level, SB1201 (De Leon) seeks to address this issue of public access to flood control channels, engineered creeks, streams, and rivers. The bill, if adopted, will amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) "to include or provide for **public use** of navigable waterways that are suitable for **recreational and education purposes**" as they relate to the Los Angeles River. This bill is likely to set precedent for other receiving waterbodies in the State.
- The UAA appears to argue that hydro-modifications impacts are indefinite. In addition, the UAA seemed only to consider full restoration of the Creek as the only alternative. It appears that the only criteria RWQCB 8 used for channel restoration was a complete riparian wetland restoration? There is no discussion of partial enhancement to the Creek as a viable option for supporting REC-1 uses. There are many gradients, without full restoration, that could support REC-1 as has been witnessed in the LA River. Also, this section took no account of statewide and southern California wide measures that consider these areas as important sites for implementing integrated water management opportunities, LID, and other multiple-benefit land-use policies to treat water.



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- Finally, the summary of adjacent land-uses and their potential to impact water quality (Mesa Verde and Costa Mesa golf courses) or the role they could play in addressing water quality issues (Fairview Regional Park and Talbert Regional Park)—as they relate to the previous bullet point—are not sufficiently addressed (5.6.4.9.2). How is the public able to determine possible sources that impact the Creek or evaluate opportunities for watershed-wide multiple benefit BMPs.

Temescal Creek

Reach Identification

- The UAA Reach 1a should not have included:
 - Cota St to Lincoln Ave (earthen bottom/rip-rap); everything else in this reach is a box or trapezoidal channel. (pg 1)
 - By segmenting these reaches according to similar characteristics, such as earthen bottoms, rip-rap walls, and more natural landforms, compared to box and trapezoidal channels, the public has a better sense of the possibilities for each reach, in terms of water quality, habitat, and recreational uses. The UAA's segmentation of the Creek combines reaches with different characteristics, like earthen bottom segments with box channel segments. This combining of different segments can promote or hide certain desirable features or attributes as not existing or being homogeneous throughout the stretch of Creek, when they are not.

Water Quality

- A 'Comprehensive Bacteria Reduction Plan' has been developed and is the foundation for achieving compliance of water quality standards as part of the MS4 permit, and to support compliance with the Middle Santa Ana River TMDL. (pg 15):
 - While Bacteria treatment or structural BMPs are stated, and citations to Stormwater Design Handbook mentioned, there is no actual projects referenced or discussed. "Planning is underway to develop future management controls" but this is not explained in detail as to what actual projects will be forthcoming, and whether those identified projects will actually work. (pg15 and pg16);
 - In the meantime, as the UAA asserts "the 'Comprehensive Bacteria Reduction Plan' is an iterative and adaptive process" that was started in 2006 and nearing completion in 2010—"Final Draft CBRPs were submitted in late December 2010...to RWQCB staff for review. (pg 16)" What BMPs, treatment, structural or programmatic, have been implemented during this time-period? Has any evaluative component been completed on actual implemented structural BMP performance and design? Beyond low-flow diversions, what other actual BMPs were installed in this watershed? What changes or modifications to those implemented BMPs were completed to address short-comings to



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initial BMP construction? As for programmatic BMPs, what evaluative measures were used to determine behavioral changes in municipalities or the general population, given that urban runoff is a bacterial source? Has enforcement been implemented in this watershed as a deterrent to urban runoff or nuisance flows in association with MS4 or TMDL compliance? (pg.16);

- In addition, the Middle Santa Ana River TMDL and MS4 are stated as the drivers for Bacteria compliance in Temescal Creek. Compliance is set for December 2015, at the latest. Why move forward with a UAA now instead of waiting 3 years until the TMDL has run its course? Also, it seems premature to proceed with a UAA for Temescal Creek when the ‘Comprehensive Bacteria Reduction Plan’ was barely finalized—“Final Draft CBRPs were submitted in late December 2010...to RWQCB staff for review. (pg 16)” It seems that the plan hasn’t had enough time to be in effect to make a UAA determination for non-compliance with water quality objectives for Bacteria. Implementing a UAA will most certainly impact monitoring (removing or reducing), BMP implementation, and water quality compliance schedules (eliminating the use, eliminates the compliance).
- How can the public reasonable expect that the effort was made by any agency or municipality to control bacteria inputs from urban runoff without such information?
- Sources are nuisance flows from urban runoff, wastewater, and Water District. (pg7-8) If the waste water plant is coming off line, does this impact the District’s recycled water program? What is the capacity of the wastewater or district agencies to capture first flush or storm events?
- The UAA fails to demonstrate how efforts to attain recreational water quality standards in the downstream receiving water body—currently REC 1—will not be negatively impacted by the request to remove the upstream recreational use designations—an action that will allow higher levels of indicator bacteria in the upstream portions of REACH 1a and REACH 1b in Temescal Creek. The REC-1 use of the downstream receiving water-body is not in question. (pg 23). If RWQCB 8 can’t comply with bacterial standards during dry weather in this section of the receiving water-body, then how does it figure this runoff or flow will not have a negative impact on the downstream receiving water-body?

USE

- The ‘Probable Future Uses’ section appears limited to local municipalities. Did RWQCB 8 check with State or other open space/Park groups desires regarding future uses for the area?



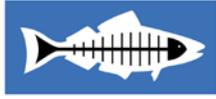
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- Did RWQCB 8 solicit information from ‘historic societies’, local historians, or personal interviews to complete if determination of historic uses? Historic uses exploration should have included a people survey of local historians or senior citizens of the area. Personal Interviews should have been a component of this process. Simply looking on Google or electronic archives can be insufficient and incomplete due to the nature of digital archives. (pg 22)
- The RCFCD denies access due to safety concerns. As it relates to this issue of de-designation or this UAA, the argument may be applicable for wet-weather (high velocity flow) conditions, yet is completely inappropriate for dry-weather. There is little justification as to why the public should not be able to use or have access to the Creek during the 98% of time when such high-flow conditions do not exist. RWQCB 8 seems to make the subjective argument that even in dry-weather the Creek is unsafe in these areas (pg 23) to access.
- Again, the characterization of adjacent land-uses and available areas is limited in its scope (pg11) as it relates to bacterial inputs or opportunities for regional or site specific BMP implementation. For example, there is a large sized lot at Magnolia and 6th (27 acres)—willing seller based on Google photos—in proximity to Temescal Creek that could be identified as a multiple benefit project.
- This UAA fails to even discuss the statewide, and Southern California, initiatives to obtain great access to these once off-limit areas (pg 22-probable future uses). For example, the City of Los Angeles has the lead the way in making the LA River a destination place for contact water recreation and public education. There are several other examples in Los Angeles County where semi-channelized waterbodies are being utilized for their non-direct recreation benefits, habitat opportunities, and public education. A number of State Conservancies and Private Non-profits are currently looking at acquiring parcels to develop greater open space opportunities for park poor regions by working with local groups. Neither the State Agencies, Non-Profit groups, nor local community groups appear to have been solicited for this review. On the State level, SB1201 (De Leon) seeks to address this issue of public access to flood control channels, engineered creeks, streams, and rivers. The bill, if adopted, will amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) “to include or provide for **public use** of navigable waterways that are suitable for **recreational and education purposes**” as they relate to the Los Angeles River. This bill is likely to set precedent for other receiving waterbodies in the State.



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Cucamonga Creek

Water Quality

- Documented sources are nuisance flows urban runoff (2.8mgd), agricultural (feed-lots and farming), and wastewater (2.8mgd). (pg 8)
 - Did the San Bernardino Stormwater Program include the wastewater effluent as part of the nuisance flows or is this a separate 2.8 mgd value? Is there a runoff value for Ontario Airport?
 - Has the San Bernardino Stormwater Program, the local POTW or RWQCB 8 considered an Integrated Water Resources Management Plan in an effort to limit the amount of nuisance flows to Cucamonga Creek? There is no discussion of this type of planning in the UAA. While there is a recycled water program, there is no discussion as to volumes being recycled or goals/capacity of future recycling efforts? This is critical information if flows from treated wastewater create conditions that exacerbated bacterial growth? Given that the POTW is treating its sewage water to tertiary level, is groundwater infiltration a possibility versus discharging it into a box channel?
- A ‘Comprehensive Bacteria Reduction Plan’ has been developed and is the foundation for achieving compliance of water quality standards as part of the MS4 permit, and to support compliance with the Middle Santa Ana River TMDL. (pg 15):
 - While Bacteria treatment or structural BMPs are discussed, and citations to Stormwater Design Handbook mentioned, there are no actual projects referenced or discussed. “Planning is underway to develop future management controls” but this is not explained in detail as to what actual projects will be forthcoming, and whether those identified projects will actually work. (pg15 and pg16)
 - In the meantime, as the UAA asserts “the ‘Comprehensive Bacteria Reduction Plan’ is an iterative and adaptive process” that was started in 2006 and nearing completion in 2010—“Final Draft CBRPs were submitted in late December 2010...to RWQCB staff for review. (pg 16)” What BMPs, treatment, structural or programmatic, have been implemented during this time-period? Has any evaluative component been completed on actual implemented structural BMP performance and design? Beyond low-flow diversions, what other actual BMPs were installed in this watershed? What changes or modifications to those implemented BMPs were completed to address short-coming to initial BMP construction? As for programmatic BMPs, what evaluative measures were used to determine behavioral changes in municipalities or the general population, given that urban runoff is a bacterial source? Has enforcement been implemented in this watershed as a deterrent to urban runoff or nuisance flows in association with MS4 or TMDL compliance? (pg.16)



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1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
fax 310 496 1902

info@healthebay.org
www.healthebay.org

- In addition, the Middle Santa Ana River TMDL and MS4 are stated as the drivers for Bacteria compliance in Cucamonga Creek. Compliance is set for December 2015, at the latest. Why move forward with a UAA now instead of waiting 3 years until the TMDL has run its course? Also, it seems premature to proceed with a UAA for Cucamonga Creek when the ‘Comprehensive Bacteria Reduction Plan’ was barely finalized—“Final Draft CBRPs were submitted in late December 2010...to RWQCB staff for review. (pg 16)” It seems that the plan hasn’t had enough time to be in effect to make a UAA determination for non-compliance with water quality objectives for Bacteria. Implementing a UAA will most certainly impact monitoring (removing or reducing), BMP implementation, and water quality compliance schedules (eliminating the use, eliminates the compliance).
- How can the public reasonable expect that the effort was made by any agency or municipality to control bacteria inputs from urban runoff without such information?
- Finally, the UAA fails to demonstrate that efforts to attain recreational water quality standards in the downstream receiving water body will not be negatively impacted by their request to remove the recreational use designations in upstream portions of REACH 1 in Cucamonga Creek. The REC-1 use of the downstream receiving water-body is not in question. If you can’t comply with bacterial standards during dry weather in this section of the receiving water-body, then it is impossible to not have an impact on the downstream receiving water-body.

USE

- Did RWQCB 8 solicit information from ‘historic societies’, local historians, or personal interviews to complete if determination of historic uses? Historic uses exploration should have included a people survey of local historians or senior citizens of the area. Personal Interviews should have been a component of this process. Simply looking on Google or electronic archives can be insufficient and incomplete due to the nature of digital archives.(pg 22)
- The RCFCD and SBCFCD deny access due to safety concerns. As it relates to this issue of de-designation or this UAA, the argument may be applicable for wet-weather (high velocity flow) conditions, yet is completely inappropriate for dry-weather. There is little justification as to why the public should not be able to use or have access to the Creek during the 98% of time when such high-flow conditions do not exist. RWQCB 8 seems to make the subjective argument that even in dry-weather the Creek is unsafe in these areas (pg 23) to access.



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- The ‘Probable Future Uses’ section appears limited to local municipalities. Did RWQCB 8 check with State or other open space/Park groups desires regarding future uses for the area? A number of State Conservancies and Private Non-profits are currently looking at acquiring parcels to develop greater open space opportunities for park poor regions by working with local groups. Neither the State Agencies, Non-Profit groups, nor local community groups appear to have been solicited for this review. On the State level, SB1201 (De Leon) seeks to address this issue of public access to flood control channels, engineered creeks, streams, and rivers, specifically the Los Angeles River. The bill, if adopted, will amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) “to include or provide for **public use** of navigable waterways that are suitable for **recreational and education purposes**”. This bill is likely to set precedent for other receiving waterbodies in the State.