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VALERIE LYNNE SHAW

June 3, 2010

Mr. Sam Unger, Acting Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street
Los Angeles, CA 90013

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CALIFORNIA REGIONAL
QUALITY CONTROL BOARD
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Dear Mr. Unger:

COMMENTS ON THE PROPOSED AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION TO INCORPORATE A TOTAL MAXIMUM DAILY LOAD FOR BACTERIA IN THE LOS ANGELES RIVER

The City of Los Angeles, Bureau of Sanitation (Bureau) appreciates the opportunity to provide the following comments and recommendations to the Water Quality Control Board Los Angeles Region (Regional Board) on the April 20, 2010 Tentative Basin Plan Amendment to incorporate a Total Maximum Daily Load (TMDL) for Bacteria in the Los Angeles River. The Tentative Basin Plan Amendment (BPA) comes at the end of a lengthy and detailed stakeholder process called CREST (Cleaner Rivers through Effective Stakeholder-led TMDLs) during which the City of Los Angeles worked closely with Regional Board and USEPA staff as well as many other municipal and environmental stakeholders to conduct groundbreaking scientific studies and collaborate on content for the dry weather components of this TMDL. We thank the Regional Board staff for the time and energy contributed to the process and the many CREST contributions that were incorporated (described below). However, because the TMDL was released before completion of the stakeholder process there are several areas with which the Bureau has concerns. As such, the Bureau is submitting comments to support constructive changes to the BPA and draft Staff Report. The footnotes in this letter provide additional details regarding the stakeholder process that has been the driving force behind all CREST deliverables described herein.



Background on Stakeholder TMDL Development Process

Based on a Memorandum of Understanding between the Regional Board, USEPA, and the City of Los Angeles, the CREST stakeholder group began focused efforts to evaluate and address bacteria issues within the Los Angeles River Watershed in 2005. The primary motivation behind those early efforts was to conduct scientific studies to support TMDL development and implementation¹.

In March 2008, relying heavily on the scientific data generated by CREST, a stakeholder-led process was begun to develop a bacteria TMDL for the Los Angeles River and tributaries. Due to the complicated nature of the TMDL – and a desire to develop a TMDL that was much more comprehensive than previous TMDLs with regards to integration of scientific information and detail of potential implementation actions – CREST took on the responsibility of supporting Regional Board staff by leading the development of the LA River Bacteria TMDL. The agreed-upon approach to TMDL development was based on CREST generating a “Technical Report”² (e.g., Stakeholder TMDL) using feedback on concepts discussed during a long series of stakeholder meetings³. Subsequently, the Regional Board Staff Report⁴ would be presented section-by-section and discussed with stakeholders following the corresponding sections of the Technical Report.

¹ Starting in 2005, CREST evaluated dry weather storm drain system inputs to the Watershed through two groundbreaking bacteria source tracking studies. The studies were designed with input from a broad range of stakeholders and the results were vetted through an independent Technical Advisory Committee, comprised of world-leading experts on bacteria contamination. The second effort (conducted during summer 2007), known as the Bacteria Source Investigation (BSI) Study, is still regarded as one of the most advanced scientific studies of bacteria in urban runoff that has been performed in California, the U.S., or elsewhere.

² CREST developed a TMDL Technical Report, containing extensive analyses sections for a dry weather TMDL (targets, source assessment, linkage analysis, allocations, implementation plan, and monitoring). When necessary, the sections evaluated multiple approaches to key aspects of the TMDL in order to allow for the vetting of issues with the range of stakeholders.

³ To facilitate discussions on the Technical and Staff Reports, CREST Steering Committee and Technical Committee meetings were held almost monthly. Over 15 CREST Committee meetings were held to discuss the TMDL sections (in addition to the many previous meetings held to discuss scientific studies), including several CREST workshops that drew up to 75 attendees each.

⁴ The original approach agreed to by CREST included a presentation of the sections of the draft TMDL documents as they are drafted by the Regional Board, as well as stakeholder section-by section discussions with the corresponding CREST Technical Report. It was understood that not all aspects of the Technical Report would be incorporated into the TMDL documents, particularly the Staff Report, but technical and policy decisions by Regional Board staff would be clearly conveyed to stakeholders as the process moved forward. However, due to time constraints, some of the sections in the draft TMDL documents and the Staff Report, that were public noticed on April 20, 2010, were not presented and did not go through discussions with stakeholders, unlike the CREST Technical Report which went through comprehensive stakeholder discussions.

Incorporation of the Stakeholder TMDL into the draft Staff Report and Basin Plan Amendment

Development of the stakeholder TMDL led to engaging and productive discussions on key TMDL issues identified by participants. CREST stakeholders now have a greatly expanded understanding of each other's perspectives and a better comprehension of the policies that affect various components of a TMDL. Outcomes of the CREST process that were successfully incorporated into the TMDL and Staff Report include the following:

- **Source Assessment:** based on the CREST scientific studies and years of long-term data collected throughout the Watershed by various agencies, the Staff Report clearly identifies the need for further study of non-point, in-channel bacteria sources (e.g., growth) that may cause or contribute to exceedances of Water Quality Objectives.
- **Load Reduction Strategies:** the Staff Report embraces the Load Reduction Strategy as a robust approach to plan, execute, and assess the numbers and locations of dry weather TMDL implementation actions for an LA River segment or tributary
- **Cost information:** the Staff Report cites the dry weather cost estimates of the Technical Report, which were based on an intensive analysis of storm drain loading data coupled with costs and timelines of previous BMP implementation efforts (e.g., Santa Monica Bay).
- **Implementation Schedule:** the prioritized schedule includes early implementation actions at the reaches where recreational users are most likely to be affected by bacteria discharges.

The Regional Board's incorporation of the dry weather schedule demonstrates understanding of the challenges the City faces in implementing TMDLs in such a large, complex watershed where the City has responsibilities in nearly every reach and tributary. Although the BPA shortened that schedule presented in the stakeholder TMDL by six years, the prioritization and staggered implementation concepts were incorporated. These concepts and the corresponding lengths of time are imperative given the necessity to focus early efforts on protecting recreational users and efficiently use scarce public resources. As such, the Bureau would like to express our support for the schedule in the TMDL.

Requested Changes to the draft Staff Report and Basin Plan Amendment

While there are many aspects of the draft Staff Report that are "next generation" with regards to bacteria TMDLs in the Los Angeles region, the BPA and draft Staff Report do not adequately address several key issues that were vetted through the stakeholder process and detailed in the stakeholder TMDL. It should be noted that many of these issues may remain after the lengthy CREST process because the envisioned stakeholder process (described above) was not completed due to the EPA consent decree time constraints which adversely affected the ability of stakeholders to engage on key issues. Recommendations to address these issues include:

- **Conditions that provide clear mechanisms for “good actor” MS4s to demonstrate compliance with final Waste Load Allocations (WLAs) should be detailed:** the reliance of the BPA on final WLAs that are measured in-stream undermines the ability of MS4s to demonstrate compliance with the TMDL. There are multiple MS4s and thousands of other NPDES Permittees in the Watershed. An exceedance of the WLA at the downstream end of a reach should not equate to all upstream MS4s being in violation of the TMDL; conditions should be included to allow MS4s to demonstrate their loading does not cause or contribute to exceedances. Therefore, we suggest monitoring at the outfall. Furthermore, conditions for MS4 compliance with the final WLA should be built upon load reduction strategies that reduce bacteria discharges through outfall-based activities including dry weather diversions, source control, and in some cases, downstream-based approaches.
- **Interim WLAs should be representative of interim, not final, conditions:** the Regional Board converted the final WLAs of the Technical Report into interim WLAs for the BPA and draft Staff Report. It is important to establish interim requirements that acknowledge the uncertainty associated with developing bacteria load reduction strategies in a highly urbanized watershed. The interim WLA should reflect a percentage of the final WLA.
- **Compliance with WLAs should acknowledge variability of bacteria sources:** a major concern of the Bureau with respect to dry weather implementation is the inherent variability of bacteria sources. The Bureau very much wants to avoid the situation that an “Unexpected Discharge” is observed during WLA compliance monitoring, and the City is found to be in violation even though we acted in good faith and implemented a large suite of bacteria control BMPs that were well-designed and executed. These types of discharges should be acknowledged when evaluating compliance with WLAs. Monitoring at the outfall can also help address these types of discharges.
- **Special Studies and Reopeners should be included in the Staff Report and BPA:** neither optional special studies nor reopeners to consider new information are identified in the BPA or draft Staff Report. However, inclusion of reopeners upon completion of optional special studies should be incorporated to provide stakeholders with confidence that the Regional Board is willing to consider outstanding issues during the early stages of TMDL implementation.

A discussion of these issues and corresponding recommendations are presented in Attachment 1. Attachment 2 contains a detailed Comment Matrix that provides additional Bureau comments, proposed revisions, and further details on the above and other issues. To simplify Regional Board staff efforts when reviewing the Bureau’s comments, Attachment 3 contains a marked-up BPA.

The recommendations made in this letter are based on good science and sound policy, *which will result in the protection of the environment that we all value so greatly*. Addressing the remaining critical issues is paramount to having an implementable and effective TMDL that is scientifically

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California Regional Water Quality Control Board
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and legally defensible. A major goal of these recommendations is simply to allow the Bureau to clearly demonstrate that actions taken by the City successfully address our contribution to the impairments of the Los Angeles River. Finally, incorporating these recommendations will promote future stakeholder TMDL processes, by instilling confidence in stakeholders that the Regional Board is willing to resolve critical issues with a TMDL through all phases of the stakeholder TMDL process.

Thank you for your consideration of these comments. If you have any questions please contact Dr. Shahram Kharaghani, Watershed Protection Division Manager at (213) 485-0587 or Donna Toy-Chen, TMDL Section Manager at (213) 485-3928.

Sincerely,

ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

ECZ:AH:SK:DC:SM
WPDCR 8746

c: Deborah J. Smith, Regional Water Quality Control Board, Los Angeles Region
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Mas Dojiri, Bureau of Sanitation/EMD
Omar Moghaddam, Bureau of Sanitation/RAD

List of Attachments:

Attachment 1 – Detailed Discussion of Key Concerns and Proposed Changes
Attachment 2 – Bureau of Sanitation’s Detailed Comment Matrix
Attachment 3 – Basin Plan Amendment with Recommended Revisions Incorporated

ATTACHMENT 1

Bureau of Sanitation's Detailed Discussion of Major Concerns Regarding the April 20, 2010 on the Proposed Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Total Maximum Daily Load For Bacteria in the Los Angeles River

1. Clarify how multiple MS4s can demonstrate compliance with final WLAs

The Los Angeles (LA) River Watershed has three MS4s and over 2,000 other types of NPDES permits (Table 4-1 in Staff Report). However, the final WLAs for MS4s are based on allowable numbers of Exceedance Days. In this manner, the TMDL makes MS4s wholly responsible for attainment of WQOs in the LA River segments and tributaries. That is, if the numbers of exceedances in a segment or tributary are higher than allowable, then MS4s that discharge to that segment or tributary are out of compliance regardless of whether the other 2,000 permittees have addressed their discharges. For example, MS4s could be deemed out of compliance if a major industrial NPDES discharger was continually exceeding their TMDL-required permit limits for *E. coli*. Similarly, in LA River segments that have multiple MS4s (e.g., Segment A), an MS4 that knowingly disregarded the TMDL requirements (“bad actor”) could lead to non-compliance for MS4s that had addressed loading from their outfalls (“good actors” because they had a sufficient number of effective BMPs across their jurisdictions). The only possible exception is if MS4s can “demonstrate the non-compliance is only due to upstream contributions” (Table 9-5 in Staff Report and Table 7-39.4 of the Basin Plan Amendment). However, the TMDL Staff Report provides no additional details on how an MS4 could provide this demonstration. Note that because of the prioritized order of implementation, this demonstration is *expected* to be necessary at the end of most implementation phases (e.g., when the implementation phase for Segment A is complete and compliance with final WLAs is required, implementation for upstream Segment B will still be ongoing, and thus Segment B is *expected* to contribute to downstream exceedances).

REQUEST: The TMDL Staff Report and BPA should describe three “equivalent conditions” that represent MS4 compliance with final dry weather WLAs, which is similar to the approach taken in the LA River Trash TMDL. These three conditions correspond to: average concentrations of MS4 runoff being less than the WQO; zero flow from the MS4; or loading rates from the MS4s not causing or contributing to WQO exceedances. Furthermore, the language will allow “good actors” to demonstrate their actions address their discharges such that they are not causing or contributing to exceedances of the final WLAs. Please insert the following paragraph at the top of page 5 of the Tentative Basin Plan amendment (after the paragraph that begins with “The WLAs for” and ends with “allowable exceedances”), and into Section 9.4.5 of the Staff Report:¹

This TMDL involves many responsible parties, and the dry weather implementation schedule includes actions at some downstream segments prior to upstream segments. MS4s can demonstrate compliance with the final WLAs – and differentiate their dry weather discharges from discharges from upstream sources and/or discharges from other responsible parties – by demonstrating one of the following equivalent conditions:

¹ The corresponding changes to the Implementation Schedule are combined with Request #3, below.

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1. MS4 loading of *E. coli* to the corresponding LA River segment or tributary during dry weather is less than or equal to the loading rates detailed in the tables below. **[note: these tables are described in comment #2]**
2. Flow-weighted concentration of *E. coli* in MS4 discharges during dry weather is less than or equal to 235 MPN/100mL, based on a weighted-average using flow rates from all measured outfalls.
3. Zero discharge during dry weather

2. Adjust Interim Waste Load Allocations to be representative of an interim, not final, water quality condition

The interim Waste Load Allocations (WLAs) in the Staff Report are based on the final WLAs of the Technical Report. These WLAs are designed such that if the *E. coli* loading rates of MS4 discharges are below those values, then MS4 discharges will not cause or contribute to WQO exceedances. As such, the interim WLAs are representative of a final water quality condition (not an interim condition). It is important to establish interim requirements that acknowledge the uncertainty associated with developing bacteria load reduction strategies in a highly urbanized watershed. That being said, the Bureau would support a requirement that bacteria implementation strategies be designed to attain the *final* WLAs (or their equivalent conditions); the interim WLAs would serve as a minimum performance measure of those implementation actions.

The following request, coupled with Request #1, would establish *E. coli* loading rates from MS4s that can be used to demonstrate WLA compliance under both interim and final conditions. Establishment of these loading rates would allow MS4s to discriminate their *E. coli* discharges from those by other NPDES Permittees, and eliminate the need for the vague language in Table 9-5 of the Staff Report and Table 7-39.4 of the Basin Plan Amendment requiring MS4s to “demonstrate the non-compliance is only due to upstream contributions.” As above, the language below will allow “good actors” to demonstrate their actions address their discharges such that they are not causing or contributing to exceedances of the final WLAs.

REQUEST: The TMDL Staff Report should incorporate appropriate interim WLAs that are representative of interim rather than final conditions. Please insert the following paragraphs at the top of page 6 of the Tentative Basin Plan amendment (just below the language inserted for Request #1) and into Section 9.4.5 of the Staff Report:

In addition, MS4 dischargers are assigned interim WLAs for dry weather to account for variability in bacteria discharges. Interim dry weather WLAs are set at 1.5 times the final WLAs. Responsible agencies can demonstrate compliance with these interim WLAs by demonstrating one of the three (3) equivalent conditions above, with the equivalent interim *E. coli* loading rates detailed in the Interim MS4 *E. coli* Loading Rates table below.

It is expected that MS4s will implement a suite of BMPs/actions that are designed to attain the *final* WLAs; the *interim* WLAs represent a minimum performance threshold

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that must be attained after that suite of actions is implemented, per the implementation schedule.

The E. coli loading rates for the interim and final equivalent conditions are as follows²:

River Segment or Tributary	<u>Final</u> E. coli Load from MS4s during Dry Weather (10⁹ MPN/Day)
Los Angeles River Segment A	274
Los Angeles River Segment B	471
Los Angeles River Segment C	421
Los Angeles River Segment D	413
Los Angeles River Segment E	29
Aliso Canyon Wash	21
Arroyo Seco	22
Bell Creek	13
Bull Creek	8
Burbank Western Channel	78
Compton Creek	6
Dry Canyon	6
McCoy Canyon	6
Rio Hondo	2
Tujunga Wash	9
Verdugo Wash	46

² The corresponding changes to the Implementation Schedule are combined with Request #3, below.

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River Segment or Tributary	<u>Interim</u> <i>E. coli</i> Load from MS4s during Dry Weather (10⁹ MPN/Day)
Los Angeles River Segment A	411
Los Angeles River Segment B	707
Los Angeles River Segment C	632
Los Angeles River Segment D	620
Los Angeles River Segment E	44
Aliso Canyon Wash	32
Arroyo Seco	33
Bell Creek	20
Bull Creek	12
Burbank Western Channel	117
Compton Creek	9
Dry Canyon	9
McCoy Canyon	9
Rio Hondo	3
Tujunga Wash	14
Verdugo Wash	69

3. Acknowledge inherent variability of bacteria sources during determination of compliance with WLAs

The stakeholder Technical Report details an intensive dry weather approach to bacteria TMDL implementation, called a Load Reduction Strategy (LRS). The components of an LRS describe a scientific process by which MS4 bacteria discharges can be monitored, identified, and controlled with BMPs. As such, the LRS provides reasonable assurance that MS4 WLAs will be attained. The described BMP implementation process is so intensive, that the Technical Report proposed that MS4 compliance could be based on developing and implementing an LRS, referred to as “action-based compliance.” Action-based compliance is not a component of the draft Staff Report; instead the Staff Report requires strict compliance with WLAs, regardless of the implemented actions or the observed conditions in the Watershed.

A major concern of the Bureau with respect to dry weather implementation is the inherent variability of bacteria sources. In particular, the Bacteria Source Identification (BSI) Study demonstrated that “outlier” discharges are not uncommon; a storm drain outfall that was not problematic during previous monitoring events suddenly exhibits exceptionally high *E. coli* loading rates and then in the next event is not problematic. The Bureau very much wants to avoid the situation that an “Unexpected Discharge” is observed during WLA compliance monitoring, and the City is found to be in violation even though we acted in good faith and

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implemented a large suite of bacteria control BMPs that were well-designed and executed. Of course, these types of discharges would need to be addressed upon their discovery, which can be included in the implementation schedule.

REQUEST: The TMDL Staff Report and BPA should incorporate language that acknowledges Unexpected Discharges. Please insert the following paragraphs at the top of page 7 of the Tentative Basin Plan amendment (prior to the paragraph that begins with "General NPDES Permits" and ends with "geometric mean target"), and into Section 9.4.5 of the Staff Report:

Variability of bacteria sources is also addressed through categorization of some MS4 bacteria discharges as "unexpected." Unexpected Discharges are those outfalls that [1] exhibit *E. coli* loading rates that are less than 25th percentile during the monitoring events used to develop implementation strategies, but then [2] exhibit greater than 90th percentile loading rates during later monitoring events used to compare MS4 loading to the interim and final WLAs. These types of discharges are very challenging for MS4s to control, and thus are excluded from the calculations used to compare MS4 loading to interim and final WLAs for compliance purposes. However, MS4s are required to take action to abate identified Unexpected Discharges, per the implementation schedule.

The combined requested changes from Request #1, #2, and #3 would also affect the implementation schedule table (Table 7-39.4 in the BPA and Table 9-5 in the Staff Report). As an example, the requested changes to the schedule for Segment B are shown below. Note that the table also includes deletion of the row specific to "Complete Implementation of LRS". In order to provide more flexibility to MS4s with regards to monitoring and BMP implementation, the schedule should only specify the date on which LRS completion and WLA attainment must be demonstrated.

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7-39.4. Los Angeles River Bacteria TMDL: Implementation Schedule

Implementation Action	Responsible Parties	Deadline
SEGMENT B (upper and middle Reach 2 – Figueroa Street to Rosecrans Avenue)		
First phase – Segment B		
Submit a Load Reduction Strategy (LRS) for Segment B (<i>or submit an alternative compliance plan</i>)	MS4 and Caltrans NPDES Permittees discharging to Segment B	2.5 years after effective date of the TMDL
Approve LRS (or alternative compliance plan)	Regional Board, Executive Officer	6 months after submittal of LRS
Complete implementation of LRS	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS	7 years after effective date of the TMDL
Achieve interim WLA, or and demonstrate <u>both completion of compliance with LRS and attainment of equivalent interim condition.</u> Identify Unexpected Discharges, if any.	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS	10 years after effective date of the TMDL
<u>Demonstrate that Unexpected Discharges have been controlled.</u>	<u>MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS</u>	<u>13 years after effective date of the TMDL</u>
Achieve final WLA or demonstrate that non-compliance is due to upstream contributions with equivalent condition	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using alternative compliance plan	10 years after effective date of the TMDL
Second phase, if necessary – Segment B (LRS only)		
Submit a new LRS	MS4 and Caltrans NPDES Permittees discharging to Segment B	11 years after effective date of the TMDL
Approve LRS	Regional Board, Executive Officer	6 months after submittal of a second LRS
Complete implementation of LRS	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS	14.5 years after effective date of the TMDL
Demonstrate completion of compliance with LRS and submit results of LRS compliance monitoring.	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS	16.5 years after effective date of the TMDL
Achieve final WLAs in Segment B or demonstrate that non-compliance is only due to upstream contributions <u>compliance with equivalent condition.</u> Identify Unexpected Discharges, if any.	MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS	16.5 years after effective date of the TMDL
<u>Demonstrate that Unexpected Discharges have been controlled.</u>	<u>MS4 and Caltrans NPDES Permittees discharging to Segment B, if using LRS</u>	<u>19.5 years after effective date of the TMDL</u>

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4. Include Process for Development and Implementation of Special Studies to Address Outstanding Issues and a Corresponding Reopener

Special studies are an important aspect of TMDL implementation as they fill data gaps for both technical and policy issues. The CREST stakeholder group identified optional special studies in the stakeholder Technical Report that could support TMDL implementation, basin planning, and reopeners. Additionally, the draft Staff Report acknowledges the potential need for special studies and reopeners.

Over the course of TMDL implementation, the TMDL may be re-considered to incorporate new information from TMDL special studies, or address revisions to water quality standards, such as adoption of revised water quality objectives based on recommendations of USEPA (draft Staff Report, page 45).

In addition, early reduction of MS4 bacteria discharges to segment B/Reach 2 will provide a better starting point for concurrently conducting optional special studies to more fully characterize all sources within this segment (draft Staff Report, page 62).

However, neither optional special studies nor reopeners to consider new information are identified in the Tentative Basin Plan amendment. Over half of the TMDLs adopted in the region acknowledge the potential value in conducting special studies and contain special study and corresponding reopener provisions. Specifically, bacteria TMDLs in the region (Ballona Creek, Los Angeles Harbor, and Marina Del Rey Harbor) include special studies similar in nature to those presented in the Technical Report.

Also presented in the Technical Report is an approach to integrating the special studies with the Basin Plan priorities adopted by the Regional Board on April 1, 2010 in Resolution R10-001. The outcome of the following two priorities could have a significant impact on the implementation of the Los Angeles River Bacteria TMDL:

1. Determine how bacteria water quality objectives should be applied in compliance determination based on more recent monitoring results.
2. Reconsider the application of REC-1 and REC-2 beneficial uses in specific instances, where appropriate.

Because of the significance of the potential outcomes of these two Triennial Review priorities, the stakeholder Technical Report suggests the formation of LA River Water Quality Standards Work Group (LARWQSWG). It was proposed that if stakeholders form a LARWQSWG, then the Regional Board would coordinate with stakeholders and participate in the process. The LARWQSWG would be a stakeholder process tasked with [1] identifying approaches to implementing the Triennial Review priorities, [2] developing science based information to support evaluating changes to the Basin Plan, and, if appropriate, and [3] supporting Regional Board staff to develop Basin Plan amendments for the Regional Board's consideration.

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The optional special studies presented in the Technical Report provide an opportunity to address outstanding issues in the TMDL and Basin Plan in a cooperative manner. Additionally, the LAWQSWG process would provides the opportunity for stakeholders to share the workload burden of developing the scientific information to support Regional Board decisions. Lastly, it is imperative that a firm date for a reopener for the Regional Board be set to provide stakeholders investing in developing scientific information reasonable assurances that such information will be heard. If information is not developed at the time of the scheduled reopener there would be no burden on the Regional Board staff. Lastly, numerous stakeholders have requested that the issues intended to be addressed through the optional studies be addressed *prior* to TMDL adoption. The Bureau understands such an approach is infeasible. However, inclusion of optional special studies and an explicit reopener, as well as supporting the formation of a work group, would provide stakeholders with confidence that the Regional Board is willing to consider outstanding issues in the early stages of TMDL implementation.

REQUEST: Revise the Basin Plan amendment to include the optional special studies, particularly studies related to uncharacterized bacteria sources and information related to a stakeholder working group to support Basin Planning for recreational uses, as presented in the stakeholder Technical Report. Additionally, include at least one explicit reopener provision five years after the effective date of the TMDL. Section 9.5 of the Staff Report should include the optional special studies discussion from Section 8.4 of the Technical Report. Insert the following paragraph at the end of the Compliance Monitoring section of the Basin Plan Amendment (which should be re-named to "Compliance Monitoring and Special Studies").

Optional Special Studies

Stakeholders are encouraged to develop special studies to evaluate the assumptions of this TMDL and to support the Basin Plan Triennial Review process. Two types of studies were highlighted by stakeholders as high priority, as described in the Staff Report:

- Studies to assess recreational beneficial use designations, including formation of a Water Quality Standards Working Group.
- Studies designed to characterize loadings from natural or in-stream sources and evaluate whether a Natural Source Exclusion is applicable.

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In addition, please insert the following rows at the end of Table 7-39.4 in the BPA and Table 9-5 in the Staff Report, below the row with the header “All Los Angeles River Segments and Tributaries”:

All Los Angeles River Segments and Tributaries		
<u>Responsible parties and agencies shall provide to the Regional Board results of optional special studies.</u>	<u>Interested responsible parties</u>	<u>Within 5 years of the effective date of the TMDL</u>
<u>The Regional Board shall reconsider the Basin Plan and/or provisions of the TMDL including evidence provided through special studies.^{3,4}</u>	<u>Regional Board</u>	<u>Within 1 year after submittal of the results of special studies</u>
Submit implementation plan for wet weather with interim milestones	All responsible parties	Within 10 years of the effective date of the TMDL
Achieve final dry-weather WLAs and LAs, <u>or equivalent conditions</u>	All responsible parties	25 years after effective date of the TMDL
Achieve final wet-weather WLAs and LAs	All responsible parties	25 years after effective date of the TMDL

³ In the case that special studies are presented to the Regional Board Executive Officer, but the Executive Officer determines that insufficient data have been provided to support a Basin Plan amendment, the decision to *not* initiate a Basin Plan amendment shall be established in concurrence with the Regional Board.

⁴ If special studies are completed after the 5-year mark, the Regional Board Executive Officer shall consider, on a case-by-case basis and in concurrence with the Regional Board, whether the information developed supports the initiation of a Basin Plan amendment process.

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
1	<p>BPA, page5, Waste Load Allocations, Table 7-39.4</p> <p>Staff Report, Section 9.4.5, Table 9-5</p>	MS4 Compliance	<p>Please consider Request #1 in Attachment 1, as follows:</p> <p>The TMDL Staff Report and BPA should describe three “equivalent conditions” that represent MS4 compliance with final dry weather WLAs, which is similar to the approach taken in the LA River Trash TMDL. These three conditions correspond to: average concentrations of MS4 runoff being less than the WQO; zero flow from the MS4; or loading rates from the MS4s not causing or contributing to WQO exceedances. Furthermore, the language will allow “good actors” to demonstrate their actions address their discharges such that they are not causing or contributing to exceedances of the final WLAs. Please insert the following paragraph at the top of page 5 of the Tentative Basin Plan amendment (after the paragraph that begins with “The WLAs for” and ends with “allowable exceedances”), and into Section 9.4.5 of the Staff Report:¹</p> <p>“This TMDL involves many responsible parties, and the dry weather implementation schedule includes actions at some downstream segments prior to upstream segments. MS4s can demonstrate compliance with the final WLAs – and differentiate their dry weather discharges from discharges from upstream sources and/or discharges from other responsible parties – by demonstrating one of the following equivalent conditions:</p> <ol style="list-style-type: none"> 1. MS4 loading of <i>E. coli</i> to the corresponding LA River segment or tributary during dry weather is less than or equal to the loading rates detailed in the tables below. [note: these tables are described in comment #2] 2. Flow-weighted concentration of <i>E. coli</i> in MS4 discharges during dry weather is less than or equal to 235 MPN/100mL, based on a weighted-average using flow rates from all measured outfalls. 3. Zero discharge during dry weather”
2	<p>BPA, page5, Waste Load Allocations</p> <p>Staff Report, Section 9.4.5</p>	Interim MS4 Allocations	<p>Please consider Request #2 in Attachment 1, as follows:</p> <p>The TMDL Staff Report should incorporate appropriate interim WLAs that are representative of interim rather than final conditions. Please insert the following paragraphs at the top of page 6 of the Tentative Basin Plan amendment (just below the language inserted for Request #1) and into Section 9.4.5 of the Staff Report:</p>

¹ The corresponding changes to the Implementation Schedule are combined with Request #3, below.

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Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments																																		
			<p>“In addition, MS4 dischargers are assigned interim WLAs for dry weather to account for variability in bacteria discharges. Interim dry weather WLAs are set at 1.5 times the final WLAs. Responsible agencies can demonstrate compliance with these interim WLAs by demonstrating one of the three (3) equivalent conditions above, with the equivalent interim E. coli loading rates detailed in the Interim MS4 E. coli Loading Rates table below.</p> <p>It is expected that MS4s will implement a suite of BMPs/actions that are designed to attain the final WLAs; the interim WLAs represent a minimum performance threshold that must be attained after that suite of actions is implemented, per the implementation schedule.”</p> <p><i>The E. coli loading rates for the interim and final equivalent conditions are as follows²:</i></p> <table border="1" data-bbox="968 740 1587 1271"> <thead> <tr> <th data-bbox="974 745 1293 802">River Segment or Tributary</th> <th data-bbox="1293 745 1581 834">Final E. coli Load from MS4s during Dry Weather (10⁹ MPN/Day)</th> </tr> </thead> <tbody> <tr><td data-bbox="974 834 1293 862">Los Angeles River Segment A</td><td data-bbox="1293 834 1581 862">274</td></tr> <tr><td data-bbox="974 862 1293 889">Los Angeles River Segment B</td><td data-bbox="1293 862 1581 889">471</td></tr> <tr><td data-bbox="974 889 1293 917">Los Angeles River Segment C</td><td data-bbox="1293 889 1581 917">421</td></tr> <tr><td data-bbox="974 917 1293 945">Los Angeles River Segment D</td><td data-bbox="1293 917 1581 945">413</td></tr> <tr><td data-bbox="974 945 1293 972">Los Angeles River Segment E</td><td data-bbox="1293 945 1581 972">29</td></tr> <tr><td data-bbox="974 972 1293 1000">Aliso Canyon Wash</td><td data-bbox="1293 972 1581 1000">21</td></tr> <tr><td data-bbox="974 1000 1293 1027">Arroyo Seco</td><td data-bbox="1293 1000 1581 1027">22</td></tr> <tr><td data-bbox="974 1027 1293 1055">Bell Creek</td><td data-bbox="1293 1027 1581 1055">13</td></tr> <tr><td data-bbox="974 1055 1293 1083">Bull Creek</td><td data-bbox="1293 1055 1581 1083">8</td></tr> <tr><td data-bbox="974 1083 1293 1110">Burbank Western Channel</td><td data-bbox="1293 1083 1581 1110">78</td></tr> <tr><td data-bbox="974 1110 1293 1138">Compton Creek</td><td data-bbox="1293 1110 1581 1138">6</td></tr> <tr><td data-bbox="974 1138 1293 1166">Dry Canyon</td><td data-bbox="1293 1138 1581 1166">6</td></tr> <tr><td data-bbox="974 1166 1293 1193">McCoy Canyon</td><td data-bbox="1293 1166 1581 1193">6</td></tr> <tr><td data-bbox="974 1193 1293 1221">Rio Hondo</td><td data-bbox="1293 1193 1581 1221">2</td></tr> <tr><td data-bbox="974 1221 1293 1248">Tujunga Wash</td><td data-bbox="1293 1221 1581 1248">9</td></tr> <tr><td data-bbox="974 1248 1293 1276">Verdugo Wash</td><td data-bbox="1293 1248 1581 1276">46</td></tr> </tbody> </table>	River Segment or Tributary	Final E. coli Load from MS4s during Dry Weather (10 ⁹ MPN/Day)	Los Angeles River Segment A	274	Los Angeles River Segment B	471	Los Angeles River Segment C	421	Los Angeles River Segment D	413	Los Angeles River Segment E	29	Aliso Canyon Wash	21	Arroyo Seco	22	Bell Creek	13	Bull Creek	8	Burbank Western Channel	78	Compton Creek	6	Dry Canyon	6	McCoy Canyon	6	Rio Hondo	2	Tujunga Wash	9	Verdugo Wash	46
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Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

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3	<p>BPA, page5, Waste Load Allocations, Table 7-39.4</p> <p>Staff Report, Section 9.4.5, Table 9-5</p>	Variability of bacteria sources	<p>Please consider Request #3 in Attachment 1, as follows:</p> <p>The TMDL Staff Report and BPA should incorporate language that acknowledges Unexpected Discharges. Please insert the following paragraphs at the top of page 7 of the Tentative Basin Plan amendment (prior to the paragraph that begins with “General NPDES Permits” and ends with “geometric mean target”), and into Section 9.4.5 of the Staff Report:</p> <p>“Variability of bacteria sources is also addressed through categorization of some MS4 bacteria discharges as “unexpected.” Unexpected Discharges are those outfalls that [1] exhibit <i>E. coli</i> loading rates that are less than 25th percentile during the monitoring events used to develop implementation strategies, but then [2] exhibit greater than 90th percentile loading rates during later monitoring events used to compare MS4 loading to the interim and final WLAs. These types of discharges are very challenging for MS4s to control, and thus are excluded from the calculations used to compare MS4 loading to interim and final WLAs for compliance purposes. However, MS4s are required to take action to abate identified Unexpected Discharges, per the implementation schedule.”</p> <p>The combined requested changes from Request #1, #2, and #3 would also affect the</p>																																		

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
			implementation schedule table (Table 7-39.4 in the BPA and Table 9-5 in the Staff Report). As an example, the requested changes to the schedule for Segment B are shown in Attachment 1. Note that the table also includes deletion of the row specific to “Complete Implementation of LRS”. In order to provide more flexibility to MS4s with regards to monitoring and BMP implementation, the schedule should only specify the date on which LRS completion and WLA attainment must be <u>demonstrated</u> .
4	BPA , insert new page, also Table 7-39.4 Staff Report , Section 9.8, Table 9-5	Special Studies and Reopeners	<p>Please consider Request #4 in Attachment 1, as follows:</p> <p>Revise the Basin Plan amendment to include the optional special studies, particularly studies related to uncharacterized bacteria sources and information related to a stakeholder working group to support Basin Planning for recreational uses, as presented in the stakeholder Technical Report. Additionally, include at least one explicit reopener provision five years after the effective date of the TMDL. Section 9.5 of the Staff Report should include the optional special studies discussion from Section 8.4 of the Technical Report. Insert the following paragraph at the end of the Compliance Monitoring section of the Basin Plan Amendment (which should be re-named to “Compliance Monitoring and Special Studies”).</p> <p><u>Optional Special Studies</u> Stakeholders are encouraged to develop special studies to evaluate the assumptions of this TMDL and to support the Basin Plan Triennial Review process. Two types of studies were highlighted by stakeholders as high priority, as described in the Staff Report:</p> <ul style="list-style-type: none"> • Studies to assess recreational beneficial use designations, including formation of a Water Quality Standards Working Group. • Studies designed to characterize loadings from natural or in-stream sources and evaluate whether a Natural Source Exclusion is applicable.
5	BPA Pg. 4 Staff Report Pg. 41-42	Effect of HFS on Exceedance Days	<p>The BPA and Staff Report are not sufficiently clear regarding the interaction of the HFS and exceedance days. Please insert the following sentence as a footnote to the table with final WLAs:</p> <p>“The allowable number of WQO exceedance days is fixed from year-to-year and independent of the annual number of days on which the HFS applies. The WQO does not apply during the HFS.”</p>

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Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
6	BPA Table 7-39.1 Pg. 5 Paragraph Nested table	Segment letters are missing	Please place the appropriate designations of segments in the table (Segment A, B, etc.).
7	BPA , Pg. 5	WRP WLAs	<p>The BPA is missing important language from the Staff Report. Specifically, please insert the following paragraph from page 52 of the Staff Report into the bottom paragraph on Page 5, related to WRPs.</p> <p>“The current coliform limits for these WRPs are sufficient, and no revisions to the WRP NPDES permits are necessary based on this TMDL. No additional actions are expected to be necessary for WRPs to be in compliance with the TMDL allocations.”</p> <p>Incorporation of this language into the BPA (not just Staff Report) is critical to avoid unnecessary additional requirements in the WRP permits.</p>
8	BPA Pg. 6 Implementation	LA implementation	Please be specific on how the LAs will be implemented through California’s 2004 Nonpoint Source Pollution Control Program. Does this mean parties responsible for LAs will be required to submit and implement a monitoring program and potentially an implementation plan?
9	BPA Pg. 7 Implementation Staff Report Pg. 52	LRS requires coordinated effort by all MS4 Permittees.	<p>The Staff Report and BPA seem to suggest that an LRS can only be performed in all MS4s within a segment or tributary coordinate their efforts. Please modify this language to be clear that individual or subgroups of Permittees can perform LRS’s. The ability to perform an LRS should be not based on whether other agencies will be cooperative. Please modify this language as outlined below to be clear that individual or subgroups of Permittees can perform LRS’s.</p> <p>“Individual MS4 Permittees or subgroups of MS4 Permittees may choose to develop and implement alternative implementation strategies for dry weather implementation. then the Group-based Group-based WLAs may be distributed based on proportional drainage area, upon approval of the Executive Officer. The implementation approaches herein, <u>including the use of an MS4 Load Reduction Strategy</u>, can still be followed based on the proportional WLAs. <u>Proportional WLAs will be calculated utilizing the <i>E. coli</i> loading rates presented in the tables above and in the waste load allocations section.</u>”</p>

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
10	BPA Pg. 7 Implementation Staff Report Pg. 64	Wet Weather Feasibility	Given the ubiquitous nature of bacteria, and the fact that even open spaces (see the SCCWRP study cited in Staff Report page 24) have been shown to discharge runoff with concentrations in excess of the WQO, the City has serious concerns regarding the feasibility of attaining the wet weather TMDL, even with billions of dollars of expenditure. There has been no demonstration by the Regional Board that available BMPs can result in urbanized receiving waters attaining WQOs during wet weather. The quantitative analyses provided by MS4s may demonstrate that wet weather compliance is infeasible (i.e., all runoff from the watershed cannot be treated). The Staff Report and Basin Plan should include provisions to re-consider the TMDL if the wet weather implementation is demonstrated to be infeasible or subject to serious economic harm to municipalities in the Watershed. This reconsideration should include the possibility of establishing an “attainable level” of water quality (i.e., concentrations above the WQOs).
11	BPA Pg. 7 Implementation	WLA implementation plan, the term “cooperatively”	Statement: “Responsible parties must provide an Implementation Plan to the Regional Board outlining how each intends to cooperatively achieve compliance with the wet-weather WLAs.” This could be interpreted to require all WLA responsible parties (40+ agencies) to work together to submit and implement one plan? Please clarify that individual agencies can submit individual compliance plans for their jurisdiction.
12	BPA Pg. 8 Staff Report Pg. 72-73 Section 9.7.1 Bullets	WLA compliance monitoring	The Staff Report states that the CMP shall include at least one monitoring location in each segment, reach, and tributary addressed by the TMDL; however, the segments and reaches overlap (i.e. – Segment A includes Reach 1 and part of Reach 2, Segment B includes part of Reach 2, etc.) so the monitoring requirement should be either for the reaches or for the segments, but not both, as this is redundant. It is recommended that only segments are required for monitoring as they are hydrographic unit used for implementation strategies.
13	BPA Pg. 8 Staff Report Pg. 72-73 Section 9.7.1 Bullets	WLA compliance monitoring	It is not clear what is meant by the statement that monitoring frequency will increase from monthly to weekly or more after the first implementation phase. The reader could ask “Does this apply only for the specific reach or segment being addressed by the implementation phase, or for the entire river?” The statement should be clarified to state that monitoring frequency for each segment/trib is independent of the other segments/tribs, increasing after the first waterbody-specific phase.
14	Staff Report Pg. 72-73	WLA compliance monitoring	The Staff Report should not be overly prescriptive and require weekly monitoring after the first phase. The WQOs may change over the next decades, and weekly frequency may no

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
	Section 9.7.1 Bullets		longer be relevant. Instead, the CMP should simply require that monitoring be increased “to a frequency sufficient to evaluate attainment of water quality standards”. The Regional Board approves the CMP. For reference, this language is included in the final Technical Report section for Monitoring (Section 8).
15	BPA Pg. 8 Staff Report Pg. 73 Section 9.7.1 Last paragraph in section	Agencies potentially responsible for in-stream sources (WLA Responsible Parties)	<p>Not every party responsible for WLAs and particularly LAs may have a discharge permit and corresponding requirements in place. For example, Army Corps and LA County Flood Control are not categorized as MS4s in this TMDL, and thus do not appear to have monitoring requirements, even though they are owners and maintainers of the impaired waterbody (i.e., the compliance monitoring section appears to be directed exclusively at MS4s). Is this the intent? Please explain how the monitoring requirements for non-MS4 parties responsible for WLAs and LAs parties are compatible with the TMDL requirements for the MS4 dischargers.</p> <p>It should be clear in the document that actions to control in-channel sources (e.g., sediments) would be the responsibility of the owner and/or maintainer of the impaired waterbody as has been done in other TMDLs. Two responsible agencies include the Army Corps of Engineers and Los Angeles County Flood Control District.</p>
16	BPA Pg. 10-12 Table 7-39.5	Agencies potentially responsible for upstream sources. (WLA responsible parties)	Bureau of Land Management, CA Parks & Rec, National Park Service, and US Forest Service are listed in the Table of responsible parties as WLA responsible parties, but throughout the BPA (and in the Staff Report), they are noted as LA responsible parties. Please clarify. Please also explain their responsibilities for meeting the allocations. Are they required to conduct or support compliance monitoring efforts or Implementation actions? Ideally, any monitoring would have the same monitoring frequency as in-channel monitoring of the LA River segments and tributaries, to ensure targets and allocations are being met and that no contaminated discharge is being passed to MS4 lands.
17	BPA Pg. 13-18 Table 7-39.4 Staff Report Pg. 68-70 Table 9-5	Unnecessary to overprescribe MS4 implementation schedule	The rows specific to “Complete Implementation” of the LRS schedule tables should be removed from the Staff Report and BPA. In order to provide flexibility to MS4s with regards to monitoring and BMP implementation, the schedule should only specify the date on which LRS completion and WLA attainment must be <u>demonstrated</u> . By removing this unnecessary row/milestone, the MS4s will have the flexibility to perform and assess implementation actions such that it provides additional time to focus on actions. For instance, MS4s could spend less time monitoring and more time installing BMPS. See the marked-up BPA in Attachment 3 for recommended approach.

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
18	BPA Pg. 13-18 Table 7-39.4 Staff Report Pg. 68-70 Table 9-5	LA milestones	Where are the implementation milestones for the parties responsible for LAs? These parties are only mentioned in the last two items, to “achieve final LAs” for dry and wet weather. Are the parties responsible for LAs required to submit and monitoring and implementation plans? If so, do they have interim allocations and/or milestones?
19	BPA Pg. 13-18 Table 7-39.4 Staff Report Pg. 68-70 Table 9-5	Final WLA compliance milestones	MS4 and Caltrans permittees should not be solely responsible for meeting final WLAs at interim milestones (such as at the end of each implementation phase for a segment). There are many factors that attribute to exceedances in the channel itself outside of MS4 and Caltrans discharge, as the TMDL alludes to, such as other permittees and other nonpoint sources. The final WLA and LA compliance milestones need to be synced so that all efforts culminate to one point and compliance can actually be met through a simultaneously coordinated effort as final WLAs cannot be met in the channel by MS4 and Caltrans efforts alone.
20	Staff Report Pg. 1 Section 1 Paragraph 3	Clarification of BSI Study	Please revise sentence to be consistent with the BSI study “This study sampled <u>every</u> <u>flowing</u> storm drain.....”
21	Staff Report Pg. 1	Clarification of CREST	Please include the following: This TMDL and Staff Report are based on the original work conducted by the “Cleaner Rivers through Effective Stakeholder-led TMDLs” (CREST) stakeholder group, a stakeholder effort initiated by the <u>an MOU between the Regional Board, USEPA, and the</u> City of Los Angeles for the purpose of developing TMDLs to restore and protect water quality in the Los Angeles River.
22	Staff Report Pg. 1	List of tributaries addressed	The list of tributaries assigned allocations in the TMDL is incomplete (missing Bull Creek and Burbank Western Channel).
23	Staff Report Pg. 4	Clarification	Please revise the following sentence to be consistent with the study referenced: A Santa Monica Bay study (Haile et al., 1999) found swimming in urban runoff-contaminated <u>marine</u> waters resulted in an increased risk of chills, ear discharge, vomiting, coughing with phlegm and significant respiratory diseases.
24	Staff Report	Clarification	Please revise the following sentence to provide a description of the River: From this point

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
	Pg. 5		the river flows east <u>through concrete, trapezoidal channel</u> to the Sepulveda Flood Control Basin at Balboa Blvd and is designated as Los Angeles River Reach 6.
25	Staff Report Pg. 5 Section 1.2.1 2 nd paragraph	Bull Creek location	The Staff Report (and also previous Los Angeles River TMDL Staff Reports) incorrectly states that Bull Creek is in Reach 6, which is defined as the headwaters to Balboa Blvd. Bull Creek is actually in Reach 5, as it flows into the Sepulveda Flood Control Basin downstream of Balboa Blvd. Please fix.
26	Staff Report Pg. 6	Clarification	Please revise the following sentence to provide a description of the River: Reach 4 of the Los Angeles River <u>is within a concrete box channel and</u> runs from the Sepulveda Dam to Riverside Drive.
27	Staff Report Pg. 6	Clarification	Please revise the following sentence to provide a description of the River: While Reach 3 upstream of the Narrows is concrete box channel, The river bottom in this area <u>the Narrows</u> is unlined because historically groundwater routinely discharges into the channel. <u>The groundwater discharges</u> in varying volumes depending on the height of the water table, maintaining year-long flow at the downstream end of the river.
28	Staff Report Pg. 6	Clarification	Please revise the following sentence to provide a description of the River: Reach 2 of the Los Angeles River <u>is a concrete trapezoidal channel and</u> runs from Figueroa Street to Carson Street. <u>In this reach, the LA River flattens and there exist some sections with large swaths of deposited sediment.</u>
29	Staff Report Pg. 6	Clarification	Please revise the following sentence to provide a description of the River: During storm events, Rio Hondo flow that is not used for spreading, reaches the Los Angeles River, <u>though in some cases runoff is channeled to the San Gabriel River.</u>
30	Staff Report Pg. 6	Clarification	Please revise the following sentence to provide a description of the River: In this reach, the channel has a soft bottom with concrete-lined <u>trapezoidal</u> sides.
31	Staff Report Pg. 7 Figure 1-2	Reference to 303(d)-listed reaches	The legend should specify these are the 303(d)-listed reaches for REC/bacteria WQOs.
32	Staff Report Pg. 10 Section 1.2.4	Area of wetland habitat	likely should say “19.82 <u>square</u> miles”

Attachment 2 – Detailed Comment Matrix on Los Angeles River Bacteria TMDL Staff Report and Basin Plan Amendment

Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
	Paragraph 2		
33	Staff Report Pg. 10	Description of LA River Habitat	Please include a discussion of the habitat provided by the LA River to shorebirds and migratory birds as described by the Audubon Society. The habitat provided by the River to such birds is an important consideration and may affect sources of bacteria to the River. See the CREST Source Assessment Appendix for additional information.
34	Staff Report Pg. 12 Section 2 Paragraph 1	LAR is “highly contaminated by fecal pollution”	“bacterial pollution” would be a more accurate and appropriate term since the fecal pollution is inferred from the bacteria levels (which may be non-fecal) rather than actual fecal matter measurements.
35	Staff Report Pg. 12	Limits on recreational use	Please include the following sentence for additional clarification on the limits on recreational uses: This severely limits the potential for recreational uses of the river. <u>Restricted access to the channels of the LA River and its tributaries also limits recreational uses.</u>
36	Staff Report Pg. 13 Table 2-3	High flow suspension	Please incorporate information related to high flow suspension (HFS) into Table 2-3 so that it is clear which reaches and tributaries have uses suspended during HFS conditions.
37	Staff Report Pg. 16	Clarification on forthcoming bacteria objectives BPA	The update of bacteria objectives will remove the <u>REC-1</u> fecal coliform objectives and use <i>E. coli</i> objectives as the sole REC-1 objective for freshwaters.
38	Staff Report Pg. 18	Clarification on exceedance frequencies	Please revise the following sentence to clarify how exceedances are evaluated in terms of allowable exceedances: The data are expressed in terms of exceedance days <u>rate</u> of the Basin Plan REC-1 water quality objectives. Exceedance days are <u>rate is a ratio</u> of samples in which measured bacteria densities exceed bacteria water quality objectives for the REC-1 beneficial use.
39	Staff Report Pg. 21	Future consideration of Natural Sources Exclusion Approach	The Staff Report indicates that there is insufficient data to quantify all naturally-occurring sources of indicator bacteria to support a Natural Sources Exclusion Approach at this time. Please add a statement to indicate that if interested parties develop sufficient data to support a Natural Sources Exclusion Approach it will be considered by the Regional Board during a reopener of the TMDL Additionally, please add an optional special study related to quantify all naturally-occurring sources of indicator bacteria into the Special Studies section of the TMDL and the BPA.

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Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
40	Staff Report Pg. 22 Section 4 Paragraph 1	Sources of bacteria	<p>Staff Report states sources of bacteria as:</p> <p>“...but are not limited to, domestic pets, horses, direct human inputs all contributing to the bacteria in the urban runoff, leaks and overflows from wastewater collection systems, illicit connections, failing septic systems, and sediments.”</p> <p>Please also acknowledge non-anthropogenic sources such as birds, wildlife, vegetation, sediment, and unknown sources. Additionally, please further explain whether these sources would be considered natural or not and clarify whether sediment sources would constitute a natural or anthropogenic source.</p>
41	Staff Report Pg. 23	Point vs. nonpoint sources	<p>The Staff Report states: “However, the regulatory distinction between point and nonpoint sources is blurred in the Los Angeles Region.”</p> <p>The rest of the paragraph discusses types of anthropogenic sources and natural sources but then states that the indicators cannot distinguish between the two. The distinction between nonpoint and point sources is a regulatory issue, not an analytical issue. If the lines are blurred in the Los Angeles Region, then the line is blurred because of policy decisions. How can MS4s implement a TMDL, or specifically demonstrate compliance with a TMDL that has in-stream WLAs, if the Regional Board cannot distinguish between sources?</p>
42	Staff Report Pg. 23-24	Number of MS4 permits is inconsistent	Table 4-1 lists two municipal dischargers, but the text below and Table 4-2 list three MS4 dischargers. Please clarify in Table 4-1 that Caltrans is considered a municipal discharger.
43	Staff Report Pg. 24 Section 4.1.1 Paragraph 2	Ackerman et al., 2003 found storm drains contribute 90% of <i>E. coli</i> in LA River	This statement is outdated and information from the BSI Study is more accurate and relevant. The SCCWRP snapshots measured point source loading rates into the River, and then categorized those inputs as “storm drain” or “WRP.” Tributaries were incorrectly categorized as storm drains. In contrast, the BSI Study used a mass balance approach to quantify the relative contributions of both point and non-point inputs. As such, the Regional Board should balance the shortcomings of the results of the 2003 study by acknowledging the more comprehensive approach and scientific findings of the CREST BSI study.
44	Staff Report Pg. 24	Clarification	Please revise the following sentence to be consistent with the study referenced: Ackerman <i>et al.</i> found that storm drains contribute roughly 13% of the flow <u>discharged by point sources</u> to the Los Angeles River in dry weather, while WRPs contribute roughly 72% of the flow <u>discharged by point sources</u> during dry weather. With this flow, storm drains were

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			<p>contributing almost 90% of the <i>E. coli</i> loading <u>from point sources</u> (Ackerman <i>et al.</i>, 2003).</p> <p>Recommend adding a following sentence after the sentence above: “The BSI Study found that non-point, in-channel sources contributed <i>E. coli</i> loading rates equal to or greater than point source inputs along certain segments.”</p>
45	Staff Report Pg. 24	Citation and clarification needed	<p>The Staff Report states:</p> <p>“While there are many sources of indicator bacteria to the MS4, the MS4 is the principal source of bacteria to the Los Angeles River in both dry weather and wet weather.”</p> <p>Please include a citation/reference for this statement. Further, based on the BSI Study, please clarify that MS4s may be the principal <u>point</u> source of <i>E. coli</i> to the River, but non-point, in-channel sources of <i>E. coli</i> were often found to be responsible for a majority of <i>E. coli</i> that impacts the LA River.</p>
46	Staff Report Pg. 24	Clarification	<p>Please revise the following sentence to be consistent with the study referenced: The study also found that agricultural, industrial, and horse recreational land uses had the highest indicator bacteria concentrations observed though all land uses (<u>including open space</u>) had concentrations well above the water quality objectives.</p>
47	Staff Report Pg. 25	Definition of major NPDES discharger/permit	<p>What is the definition of a major NPDES discharger? Please include in the Staff Report.</p>
48	Staff Report Pg. 25 and 27	Clarification of significance of sources for which no data are available	<p>The Staff Report states:</p> <p>“Neither discharger is required to monitor for bacteria in their current permit and are not known to be a significant source of bacteria to the watershed.”</p> <p>Without data, it is not possible to ascertain if the two major NPDES dischargers (non-WRPs) are or are not a significant source of bacteria. Please modify language to state that it is unknown if these dischargers are significant sources of bacteria to the watershed rather than they are not known to be significant sources of bacteria. Clarification is also needed in section 4.1.4.</p>
49	Staff Report Pg. 25 and 26	Clarification of Tillman discharges	<p>The Staff Report States discharge rates in million gallons per day for the Tillman, LA Glendale, and Burbank WRPs. Are these dry weather, wet weather, or design flow rates?</p>

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Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
			Please clarify.
50	Staff Report Pg. 26	Define minor NPDES discharger/permit	What is the definition of a minor NPDES discharger? Please include in the Staff Report.
51	Staff Report Pg. 27 Section 4.2 Paragraph n/a	Open space and undeveloped land not fully acknowledged	The reference site in Arroyo Seco is just one of many natural sites that influence with quality of LA River tributaries. Data from this one site should not be used to rule out impacts by natural flows across the entire watershed.
52	Staff Report Pg. 28	Clarification	Please revise the following sentence to be consistent with the study referenced: A variety of analyses were used by the BSI Study <u>and its Technical Advisory Committee (TAC), which included academic experts on bacterial contamination,</u> to assess and rank the potential causes of in-channel <i>E. coli</i> sources along Reach 2, as follows:
53	Staff Report Pg. 28 Section 4.2.4 Paragraph 1	in-stream bacterial inputs list	Please revise the following sentence to be consistent with recent studies on bacterial contamination at Long Beach: Regrowth or resuspension of sediment- <u>or vegetation-</u> associated bacteria.
54	Staff Report Pg. 30	Clarification	Please revise the following sentence to be consistent with the study referenced: With this flow, storm drains were contributing almost 90% of the <i>E. coli</i> loading <u>from point sources</u> (Ackerman <i>et al.</i> , 2003).
55	Staff Report Pg. 30	Clarification	Please revise the following sentence to be consistent with the study referenced: The study also found that some <u>the majority of</u> <i>E. coli</i> loading in Reach 2 could not be attributed to the measured storm drain inputs. Using Monte Carlo simulations, <u>it was estimated that <i>E. coli</i> loading from non-point, in-channel sources was over 40 times greater than loading from storm drains.</u>
56	Staff Report Pg. 30	Clarification	Please revise the following sentence: The loading rate units and allocation units are in the bacterial concentration <u>discharge</u> units of MPN/day.
57	Staff Report Pg. 36	Clarification	Please revise the following sentence: The flow duration curve was multiplied by the water quality objective for <i>E. coli</i> to calculate the allowable instream loading <u>in MPN/day</u> .
58	Staff Report Pg. 36	Clarification of interim WLA compliance	The description of interim WLAs should be clarified. The <i>E.coli</i> loading rates correspond to loading rates from all drains along a segment or tributary. They are measured end-of-pipe,

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Detailed Comment #	Document Reference: (Doc., Section, Pg. #, Paragraph #)	Issue	Comments
	Section 6.1 Last paragraph		not in-stream.
59	Staff Report Pg. 37	Load allocations are unclear	It is unclear whether there is a difference in allocations between different non-point sources. Please clarify if there is a difference in load allocations for OWTS and non-MS4 lands.
60	Staff Report Pg. 37	Load allocations are unclear	How does an individual discharger assigned a load allocation know if they are complying with an exceedance day allocation? Please clarify what the meaning of an exceedance day is for such a discharger. Exceedance days are normally assigned to in-stream locations.
61	Staff Report Pg. 38	Clarification	Please clarify the sentence as follows: Monitoring data from October 2005 to May 2007 were used to determine the exceedance probability of the reference system for dry and wet weather. Samples were identified as dry or wet weather samples using rainfall data from LAX based on local weather conditions and the 0.1" wet weather definition discussed herein.
62	Staff Report Pg. 39 Section 6.2.6 Paragraph last	Acknowledging minimally impacted sites in reference study	Thank you for acknowledging that two sites were removed from the reference study. The reason for removal and circumstances of removal should also be mentioned here since SCCWRP and their designated scientific technical review panel did not propose their removal in the final version of the research study paper published in 2008.
63	Staff Report Pg. 40	Clarification	The following is inaccurate: “Where ECC is the estimated number of exceedance days under the critical condition and P(E) _i is the average probability of exceedance for any site.[end of Sentence 1] The average exceedance probability is appropriate, since the weekly sampling is systematic and the rain events are randomly distributed; therefore, sampling will be evenly spread over the dry weather and wet weather events (i.e., the rain day, day after, 2nd day after, 3rd day after) [end of Sentence 2].” No averages were utilized. The word “average” in the first sentence should be replaced with “observed”. Also, the second sentence should be deleted as it is incorrect and, again, averages were not utilized.
64	Staff Report Pg. 41 Equation 6.2	Calculation should be based on number of wet days	The calculation of exceedance days during wet weather does not make sense and should be based on the ratio of monitored wet days to actual wet days rather than the total number of days in the year. Please revise. See the final version of the Targets section of the Technical Report for further clarification.
65	Staff Report Pg. 40-41	Formatting	Suggest editing the formatting of pages 40-41 so that the equation does not break across pages.

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66	Staff Report Pg. 42	High Flow Suspension clarification	The effect of HFS on exceedance days should be clarified with a footnote. Suggested language: The allowable number of WQO exceedance days is fixed from year-to-year and independent of the annual number of days on which the HFS applies. The WQO does not apply during the HFS.
67	Staff Report Pg. 45 onward	Formatting	The header and sub-header positions and font sizes are not consistent. Please modify.
68	Staff Report Pg. 46	Wet Weather Structural BMPs, Regional BMPs in particular	Of the BMPs listed, it is unlikely they would be able to handle the flow volumes needed to treat stormwater. In an urbanized watershed that has been designed to drain very quickly into the river, flow rates are such that these BMPs most likely are not able to treat such high volumes of water on a regional scale. Given that the Regional Board indicates the wet-weather TMDL is achievable through use of BMPs, the TMDL should clearly identify and provide support for the effectiveness of the suggested wet-weather BMPs.
69	Staff Report Pg. 51 Section 9.4.1	Missing sources	In-channel sources are noted as a non-point source, but are not assigned any responsibility. Who is responsible for in-channel sources? Please identify the parties responsible for in-channel sources and the required implementation responsibilities.
70	Staff Report Pg. 51	Suggested Edit	Suggest editing the following sentence to provide clarity: “Point sources include water reclamation plants, general and individual industrial stormwater dischargers, individual wastewater dischargers, Municipal Separate Storm Sewer System (MS4) dischargers, and among other dischargers <u>subject to NPDES permits.</u> ”
71	Staff Report Pg. 51	Subheadings appear to be incorrect	Section 9.4.2 is titled “Dry Weather Implementation for Point Sources” but each subsequent section (9.4.3, 9.4.4, etc.) are types of point sources. Seems that 9.4.3 should be 9.4.2.1.
72	Staff Report Pg. 52	Clarification on point of compliance	The Staff Report states: The interim WLA are expressed as the maximum <i>E. coli</i> load in MPN per day. The final WLAs are expressed as exceedance days of the numeric targets measured in the receiving water (i.e. river segment or tributary). Load allocations are assigned as exceedance days; however, there is no specification regarding the point of compliance being the receiving water. Are the exceedance days different for LAs and WLAs? Please clarify if there is a difference and how final LAs are measured. In the receiving water, or end-of-pipe?

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73	Staff Report Pg. 52	How can exceedance days be allocated based on proportional drainage area?	The MS4 WLA is group based. However, if individuals or subgroups decide to develop and implement alternative implementation strategies, then the WLAs [exceedance days] are to be divided based on proportional drainage area. How would you accomplish a division based on proportional area for final WLAs, which are a unit of time?
74	Staff Report Pg. 53	LRS is based on mass-based WLAs	<p>The following statement is confusing for agencies implementing LRSs: "the LRS must be designed to meet the final WLA expressed as exceedance days of the numeric targets in the river segment or tributary"</p> <p>The LRS is fundamentally based on MS4 loading rates from outfalls. The LRS approach described in the Staff Report and Technical Report does not include any type of in-stream modeling. The assumption is that attainment of the mass-based WLAs will result in attainment of the exceedance-day based WLAs. Please make this change: "the LRS must be designed to meet the interim mass-based WLAs, which correspond to attainment of the final WLA expressed as exceedance days of the numeric targets in the river segment or tributary"</p> <p>Throughout the Staff Report, it needs to be clear that mass-based WLAs are measured end-of-pipe. They are NOT measured in-stream. The in-stream loading rates will be much higher due to loading from upstream reaches and tributaries. The WLA loading rates only apply to MS4 discharges.</p>
75	Staff Report Pg. 53	Suggested edit	The LRS dry weather MS4 LRS dry weather implementation strategy as described in the following <u>this section</u> establishes a stepwise and iterative process.
76	Staff Report Pg. 54	Reference does not make sense	<p>The Staff Report states: "The downstream-based approach poses significant challenges, and may in fact not be feasible for any of the Los Angeles River segments or tributaries due to regulatory and/or engineering constraints, as described below."</p> <p>The text below lists alternatives but does not discuss challenges. Please include a discussion of the challenges. See Technical Report for information to support a discussion of the challenges.</p>
77	Staff Report Pg. 54	Text revision necessary.	The Staff Report states: "A downstream-based approach could be considered "infeasible" according to any of the above criteria."

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			“Above criteria” refers to a list of components to consider. The components are not developed as criteria, just elements that should be considered. The sentence should be modified to state that “If an evaluation of any of the components above result in a finding of infeasibility, then the proposed downstream-based approach may therefore also be considered infeasible.” See Technical Report for information to support a discussion of the challenges.
78	Staff Report Pg. 55	Edit to sentence	Delete the “s” from “MS4s” in the following sentence: “The regulatory and public acceptability components are likely the biggest hurdles for MS4s Permittees that would pursue a downstream-based approach.”
79	Staff Report Pg. 56 Text below Figure 9-1	Formatting	Please insert a page break to move this text to the next page, or it might be missed by the reader.
79	Staff Report Pg. 62 Priority 1 Part 3	Special Studies	<p>The Staff Report states: In addition, early reduction of MS4 bacteria discharges to segment B/Reach 2 will provide a better starting point for concurrently conducting optional special studies to more fully characterize all sources within this segment.</p> <p>Please add a statement to indicate that if interested parties develop sufficient data to support a Natural Sources Exclusion Approach it will be considered by the Regional Board during a reopener of the TMDL. Additionally, please add an optional special study related to quantify all naturally-occurring sources of indicator bacteria into the Special Studies section of the TMDL and into the BPA.</p>