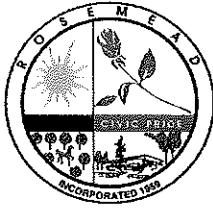


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March 28, 2017

California Regional Water Quality Control Board
Los Angeles Region
ATTN: Jun Zhu
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Email: losangeles@waterboards.ca.gov

Subject: Comment Letter – Revisions to the Los Angeles Region (303(d))

Dear Mr. Zhu:


The City of Rosemead (City) is pleased to submit for your consideration the attached comments regarding the Regional Board's propose 2016 303(d) list revisions.

We note significant changes to this list, they include: Rosemead is located in Reach 3 of the Rio Hondo (R3-RH), upstream of the spreading grounds and Whittier Narrows Dam. According to the 2016 303(d) list, all of the metals subject to the Los Angeles River Metals TMDL have been placed on the "do not list" for Rio Hondo. This validates the 2010 303(d) list, which did not list any of the metals for R3-RH.

This is good news for our City and once the Los Angeles Basin Plan is amended, Rosemead's MS4 Permit compliance burden will be significantly reduced.

In closing, the City of Rosemead appreciates the opportunity to comment on this matter. Should you have questions or require additional information, please do not hesitate to contact me.

Sincerely,


Kathy Garcia
Director of Public Works
City of Rosemead
(626) 569-2118

cc: Bill R. Manis, City Manager
Rafael Fajardo, City Engineer

Comments In Re: Los Angeles Regional Board's Proposed 2016 303(d) List Revisions to the Los Angeles River (Metals)

I. Summary

The 2016 303(d) revisions for the several reaches (water quality segments) of the Los Angeles River and tributaries¹ propose to **de-list**, **do not de-list**, and **do not list** metals-related pollutants including copper, lead, selenium and zinc. These pollutants are the subject of the *Total Maximum Daily Loads for Metals for the Los Angeles River (LAR-TMDL)* adopted by Regional Board in 2007. This TMDL has been incorporated into the current Los Angeles County MS4 Permit MS4 Permit (MS4 Permit). The MS4 Permit enables compliance with TMDL waste load allocations (WLAs) -- also referred to as numeric targets. The numeric targets are translated into water quality based effluent limitations (WQBELs) which are applied to MS4 outfall discharges and to receiving waters as limitations. To comply with both, the MS4 Permit coercively encourages compliance through Watershed Management Programs (E/WMPs).

Although many metals have either been placed on the "de-list" and "do not list" categories for Los Angeles River water quality segments, many also have been placed on the "list" and do not de-list categories. Nevertheless, these listings should be voided because:

1. although the LAR-MTMDL claims to have developed water quality standards (includes TMDLs) in accordance with the federal California Toxic Rule (CTR) adopted in 2000, it actually has not; and
2. the LAR-MTMDL is based on water quality samples that were conducted before the *Water Quality Control Policy for California's Clean Water Act Section 303(d) List (Listing Policy)*, which was adopted in 2004.

- **California Toxic Rule**

CTR was adopted to provide a mathematical method for establishing ambient (dry weather) water quality standards for toxics necessary to protect beneficial uses of receiving waters. The LAR-MTMDL, however, along with other TMDLs, does not comply with CTR in two significant respects.

First, the TMDL calculates numeric water quality standards/TMDLs for both wet weather and ambient receiving water conditions instead of only on ambient. The LAR-TMDL misinterprets CTR here by claiming that EPA did not differentiate between wet and dry weather conditions when establishing metals and toxics limitations. There is nothing in CTR that supports that view. CTR makes it clear that its purpose is to establish ambient water quality standards: *This final rule establishes ambient water quality for priority toxic pollutants.* USEPA defines ambient as:

¹Includes but is not limited to the Estuary (Queens Bay); Los Angeles/Long Beach Harbor, Estuary to Reach 1, Reaches 2, 3, 4, 5, and 6; Alhambra Wash, Arroyo Seco, Reaches 1 and 2 (tributaries); Compton Creek (tributary); Monrovia Canyon, Rio Hondo Reach 1; Reach 1 (tributary); Sawpit Wash, and Tujunga Wash.

Natural concentration of water quality constituents prior to mixing of either point or nonpoint source load of contaminants. Reference ambient concentration is used to indicate the concentration of a chemical that will not cause adverse impact to human health.

In other words, ambient is the normal reference condition of a receiving water. This is also the clear understanding of the Regional Board's Surface Water Ambient Monitoring Program (SWAMP). MS4 and other point source stormwater (wet weather) outfall discharges, using sampling and analysis results, are measured against the ambient target for a pollutant established by CTR. For example, suppose a copper limitation is set at 37 micrograms per liter for a given water body. This limit is required to protect fish. Persistent exceedances of the limit based on outfall monitoring would necessitate a revision to the MS4 Permittee's stormwater management program.

Second, CTR requires a hardness parameter (calcium carbonate) to make chemical water quality analysis of toxics more accurate. Generally, the higher the hardness value the higher the toxic pollutant expressed as a numeric limit. The LAR-MTMDL calculates CTR for toxics using a hardness value of 100 milligrams per liter (mg/l). It contends that this is the hardness value required by CTR. This is false. CTR requires actual hardness to be determined by water quality sampling and analysis at the same time a toxic pollutant is sampled. The Regional Board's SWAMP abides by this requirement. Therefore, the LAR-MTMDL establishes limitations for metals and toxics that are more stringent than necessary. This provides another reason for voiding the LAR-TMDL and revising it with a recalculated limitation for each metal by using an actual hardness value based on ambient water quality sampling and analysis.

- **California 303(d) Listing Policy (Listing Policy)**

The Listing Policy was adopted to provide a statistical method to determine how many water quality samples that exceed a water quality standard are required to place a pollutant on a 303(d). That method is a binomial distribution based on the rejection of a null hypothesis measured against sample sizes (see attachment #1). A review of the 2016 303(d) list fact sheets reveals that the metals placed on previous 303(d) lists did not conform to the Listing Policy. In fact, the LAR-MTMDL is based on water quality data that was developed prior to the adoption of the Listing Policy in 2004. According to the LAR-MTMDL, the metals numeric targets were based on data that was limited to 2002. Based on this fact alone the LAR-MTMDL should be voided.

MS4 Permittees located in Reach 2 of the Rio Hondo will be pleased to know that the 2016 303(d) list does not propose to list it for any of the metals covered by the LAR-MTMDL. This makes sense given that this reach was not listed for metals impairment on the 2010 303(d) list. Further, LAR-MTMDL makes no mention of Reach 2 of the Rio Hondo. As result, the following cities should not be subject to this TMDL: Alhambra (partially); Arcadia; Bradbury; Duarte; El Monte; Irwindale (partially); Montebello (partially); Monterey Park; Pasadena (partially); Rosemead; San Gabriel; San Marino; South El Monte; Irwindale (partially); and South Pasadena (partially).

However, it is noted that Reaches 1 and 2 of the Arroyo Seco was not placed on the "do not list" for metals. It should have been for the same reason Reach 2 of the Rio Hondo was. Neither Reach 1 nor Reach 2 of the Arroyo Seco appears on the 2010, 2006, or 2002 303(d) list for metals. The Regional Board may wish to update the 2016 303(d) list to place the Arroyo Seco on the "do not list" category.

Attachment #1

TABLE 3.1: MINIMUM NUMBER OF MEASURED EXCEEDANCES NEEDED TO PLACE A WATER SEGMENT ON THE SECTION 303(D) LIST FOR TOXICANTS.

Null Hypothesis: Actual exceedance proportion < 3 percent.

Alternate Hypothesis: Actual exceedance proportion > 18 percent. The minimum effect size is 15 percent.

Sample Size	List if the number of exceedances equal or is greater than
2 – 24	2*
25– 36	3
37– 47	4
48– 59	5
60– 71	6
72– 82	7
83– 94	8
95– 106	9
107– 117	10
118– 129	11

*Application of the binomial test requires a minimum sample size of 16. The number of exceedances required using the binomial test at a sample size of 16 is extended to smaller sample sizes.

For sample sizes greater than 129, the minimum number of measured exceedances is established where α and $f3 < 0.2$ and where $|\alpha - f3|$ is minimized.

α = Excel® Function BINOMDIST(n-k, n, 1 – 0.03, TRUE)

$f3$ = Excel® Function BINOMDIST(k-1, n, 0.18, TRUE)

where n = the number of samples,

k = minimum number of measured exceedances to place a water on the section 303(d) list,

0.03 = acceptable exceedance proportion, and

0.18 = unacceptable exceedance proportion