



Heal the Bay



January 14, 2019

Ms. Deborah Smith, Executive Officer  
Regional Water Quality Control Board  
Los Angeles Region  
320 W 4th Street, Suite 200  
Los Angeles, CA 90013

Sent via e-mail to: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**RE: REQUEST FOR TIME EXTENSION TO THE IMPLEMENTATION OF LOAD REDUCTION STRATEGIES FOR SEGMENT B OF THE LOS ANGELES RIVER AND ARROYO SECO; UPPER LOS ANGELES RIVER ENHANCED WATERSHED MANAGEMENT PROGRAM (NPDES PERMIT NO. CAS004001; ORDER NO. R4-2012-0175).**

To Ms. Smith:

On behalf of the undersigned groups, we respectfully submit the following comments on the Request for Time Extension to the Implementation of Load Reduction Strategies for Segment B of the Los Angeles River and Arroyo Seco, submitted by the Upper Los Angeles River Enhanced Watershed Management Program (Upper LA River EWMP Time Extension Request).

This Time Extension Request perfectly exemplifies one of our major concerns regarding the 2012 permit: that there would be little up-front project analysis, leading to constant revision and little actual implementation. These implementation delays are unreasonable. The alternative “compliance” approach, followed by this permittee, supposedly provides a finite, concrete, and rigorous process for meeting requirements; however, it is evident that the exact opposite is happening here. Permittees have had over six years to identify potential projects and conduct technical analyses. This request is yet another demonstration of the endless loop of permit “implementation” without actual project implementation and eventual achievement of water quality standards.

The Upper LA River EWMP group proposed to comply with dry-weather requirements using Load Reduction Strategies (LRS) to address water quality impairments for bacteria, which pose risk of gastro-intestinal illness to any recreator who comes in contact with the impaired water. As sections of the LA River have recently been opened to the public for direct contact water recreation, it is imperative that dischargers comply with the Los Angeles River Watershed Bacteria Total Maximum Daily Load (Bacteria TMDL) as soon as possible. After the 2012 MS4 permit was approved, the LRS for Segment B of the Upper LA River was submitted in 2015 with a specified deadline of March 2019, and the LRS for Arroyo Seco was submitted in 2016 with a specified deadline of September 2020. The LRS process requires the discharger to address both priority outfalls (consistent problematic discharges) and outlier outfalls (episodic problematic discharges). To date, the Upper LA River EWMP group has completed only two of eight projects to address priority outfalls, and has not addressed any of the outlier outfalls. Therefore, the permittee has not completed the requirements necessary for this alternative compliance approach in either Segment B of the Upper LA River or the Arroyo Seco area. We therefore urge the Regional Board to deny the Upper LA River EWMP Time Extension Request and hold the discharger responsible for water quality objective exceedances measured after these 2019 and 2020 deadlines pass.



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#### *Segment B of the Upper LA River*

Four projects were proposed in Segment B of the Upper LA River to address priority outfall bacteria pollution. With the March 2019 deadline quickly approaching, two of these projects have been completed, while the remaining two projects for Priority Outfalls R2-02 and R2-04 are only in the design phase. While we understand that unforeseen issues can arise during the lifespan of a project, the issues delaying project completion at R2-02 and R2-04 (utility conflicts, traffic mitigation issues, and soil contamination) should have been identified early in the planning process, leaving plenty of time to adjust the project design and continue project development on schedule. Outlier outfalls are not addressed in this report. Additionally, permittees do not provide information regarding at which point in the planning process these issues became known. Relatedly, permittees do not provide a detailed justification of the five-year extension request. Permittees must provide project milestones to which the Regional Board will hold them accountable.

#### *Arroyo Seco Area*

Four projects were proposed to address priority outfalls bacteria pollution in the Arroyo Seco area, as well. Two of the projects remain in the design phase, while the other two are still in the pre-design phase. The two projects in the design phase to address Priority Outfalls AS-21 +AS-22 and AS-15 have been delayed due to the heavily urbanized project location. This obstacle was identified before the project was submitted in 2016 and should have been addressed during projects planning at that time. The project to address Priority Outfall ARS-234 has encountered many roadblocks including an underground storage tank (UST) and soil contamination. It is unclear in this report when the Upper LA River EWMP group became aware of these obstacles, and how long it took to transition to a revised project. The existence of the UST would have been discoverable through public records during the early pre-design phase, prior to project submittal in 2016. Additionally, and perhaps more confusingly, permittees cite the fact that the proposed project at the Caltrans facility “would greatly disrupt the daily activity of the yard.” This information was readily available to permittees or would have become abundantly clear if any level of information gathering was conducted at the Caltrans site prior to project submittal in 2016. This hardly justifies a five-year extension. The final project, to address Priority Outfall AS-41, has not run into any specific roadblocks except that the projects itself was not sufficiently defined when it was proposed in 2016. Outlier outfalls are not addressed in this report.

While we absolutely support extensive public outreach for each of these projects, as proposed by the Upper LA River EWMP group in this Time Extension Request, this endeavor must begin concurrently with project development, immediately after project approval to ensure that these serious water quality impairments are addressed by the agreed upon deadlines. The issues delaying completion of these projects exemplify our original concern that the EWMPs were approved without sufficient project assessment. The discharger has now had over six years to design and implement projects, and insufficient progress has been made at this time. Only two of eight priority outfalls have been addressed, and outlier outfalls have yet to be addressed at all. The conditions under which a discharger may exceed interim limitations require compliance with the deadlines set in the EWMP. In this case, these conditions have not been met; therefore, in accordance with the requirements of the permit, the dischargers should be immediately subject to any applicable baseline water quality objectives and/or



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interim limits. We urge the Regional Board to deny the Upper LA River EWMP Time Extension Request, and hold the discharger responsible for any exceedance of interim bacteria limits that occurs after these deadlines have passed.

Thank you for the opportunity to comment on the Request for Time Extension to the Implementation of Load Reduction Strategies for Segment B of the Los Angeles River and Arroyo Seco submitted by the Upper Los Angeles River Enhanced Watershed Management Program. If you have any questions concerning these comments, please contact the undersigned staff.

Sincerely,

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Heal the Bay

Arthur Pugsley  
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LA Waterkeeper

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