



January 11, 2019

Mr. Ivar Ridgeway
Storm Water Permitting Unit Chief
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Comments In Re: Los Angeles River Bacteria Load Reduction Strategy

Dear Mr. Ridgeway:

This is to offer comment regarding the proposed Los Angeles River Bacteria Load Reduction Strategy (B-LRS). To begin with, it should be made abundantly clear that the LRS is not an MS4 Permit requirement and, therefore, is not necessary. As a consequence, it imposes an unnecessary cost burden on municipalities that are subject to the Los Angeles River bacteria total maximum daily load (TMDL).

The Upper Los Angeles River and EWMP group, which includes the Arroyo Seco, is proposing several dry weather flow projects that would divert flow away from these conveyances to a POTW for treatment. The EWMP group admits that the project is an optional approach to meeting the dry weather flow treatment requirement for the Los Angeles River and the Arroyo Seco. The City of Los Angeles, which is the Upper Los Angeles River EWMP group leader, has already proposed to divert non-stormwater low flow to dry wells or a sewage treatment plant, but has requested additional time (five years) to explore other options. It is unclear why additional time is necessary given that the LRS is superfluous and voluntary.

The front and center issue here is that the B-LRS is not an MS4 Permit requirement. Nothing in the current MS4 Permit – which is about to be judicially voided – mentions anything about a load reduction strategy as a means of meeting waste load allocations. It is understood that the Los Angeles River Bacteria TMDL, which was adopted in 2010, recommends an MS4 B-LRS, but only as an option to meet bacteria waste load allocations. It is an established fact, affirmed by the Los Angeles Regional Board, that TMDLs are not self-implementing. They must be executed through an MS4 Permit. But again, the MS4 Permit mentions nothing about LRS as a means of meeting the bacteria TMDL for the Los Angeles River.

Further, the E/WMPs, which were adopted in the 2012 Los Angeles MS4 Permit – two years after the Los Angeles River Bacteria TMDL was adopted – already addressed bacteria and other pollutants by requiring infiltration controls through E/WMPs. These controls are intended to divert runoff away from receiving waters to infiltration areas. Beyond this, the priority outfalls drain into hardened portions of Los Angeles River tributaries, including Arroyo Seco Reaches, where no recreational uses are possible. Add

to this that no significant dry weather (non-stormwater) flows are consistently observable from outfalls. This is probably due, in significant measure, to water conservation efforts.

The need for an LRS will be soon be obviated by the Gardena/Duarte court decision. According to the tentative order issued by an Orange County Superior Court (on December 31, 2018), MS4 Permittees are not required to comply with numeric water quality based effluent limits. This was previously affirmed by a Los Angeles Superior Court in NRDC v. State Water Boards. A second decision is also forthcoming from the Orange County Superior Court concerning arguments raised only by Gardena, which include, but are not limited to, that federal stormwater regulations do not require compliance with non-stormwater (dry weather) dischargers. Instead, federal regulations only require MS4 Permittees to prohibit non-stormwater discharges. A decision on this is expected in the next few days.

Against this background, it is recommended that the Regional Board not approve the LRS and inform the Upper Los Angeles River EWMP group that the LRS is a voluntary action, not subject to MS4 Permit requirements.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Tahir". The signature is stylized with a large initial "R" and a long horizontal stroke at the end.

Ray Tahir
TECS Environmental