

**State of California
California Regional Water Quality Control Board, Los Angeles Region**

**RESOLUTION NO. 2006-009
April 6, 2006**

Statement of support for the efforts of responsible jurisdictions and agencies in the Marina del Rey Watershed to utilize an integrated water resources approach to achieve full compliance with the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL in the shortest possible timeframe and no later than 2021

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. The federal Clean Water Act (CWA) requires the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) to develop water quality standards, which include beneficial use designations and criteria to protect beneficial uses for each water body found within its region.
2. The Regional Board carries out its CWA responsibilities through California's Porter-Cologne Water Quality Control Act and establishes water quality objectives designed to protect beneficial uses contained in the Water Quality Control Plan for the Los Angeles Region (Basin Plan).
3. Section 303(d) of the CWA requires states to identify and to prepare a list of water bodies that do not meet water quality standards and then to establish load and waste load allocations, or a total maximum daily load (TMDL), for each water body that will ensure attainment of water quality standards and then to incorporate those allocations into their water quality control plans.
4. Marina del Rey Harbor (MdrH) Mothers' Beach and Back Basins were listed on California's 1998 section 303(d) List, due to impairments for coliform or for beach closures associated with bacteria generally. Mothers' beach and back basins of MdrH appeared on the 303(d) List because the elevated bacteria and beach closures prevented full support of the beaches' designated use for water contact recreation (REC-1).
5. A consent decree between the U.S. Environmental Protection Agency (USEPA), Heal the Bay, Inc. and Santa Monica BayKeeper, Inc. was approved on March 22, 1999. This court order required completion of a TMDL to reduce bacteria at Marina del Rey Harbor Mothers' Beach and back basins by March 2004.
6. The Regional Board adopted a TMDL to address bacteriological water quality impairments for Mothers' Beach and back basins of MdrH located in Los Angeles County, California. The Regional Board adopted a TMDL to address water quality impairments during dry and wet weather on August 7, 2003 (Resolution 2003-012).
7. The Regional Board incorporated the TMDL along with appropriate implementation measures into its Basin Plan as required (40 CFR 130.6(c)(1), 130.7). The Basin Plan and applicable statewide plans serve as the State Water Quality Management Plans governing the watersheds under the jurisdiction of the Regional Board.

8. The Regional Board established the above-mentioned TMDL to preserve and enhance the water quality at Santa Monica Bay (SMB) including MdrH and for the benefit of the 55 million beachgoers, on average, that visit the Santa Monica Bay beaches each year. At stake is the health of swimmers and surfers and associated health costs as well as sizeable revenues to the local and state economy. Estimates are that visitors to Santa Monica Bay beaches spend approximately \$1.7 billion annually.
9. The Regional Board's goal in establishing the above-mentioned TMDLs is to reduce the risk of illness associated with swimming in marine waters contaminated with bacteria. Local and national epidemiological studies compel the conclusion that there is a causal relationship between adverse health effects, such as gastroenteritis and upper respiratory illness, and recreational water quality, as measured by bacteria indicator densities. The water quality objectives on which the TMDL numeric targets are based will ensure that the risk of illness to the public from swimming at MdrH Mothers' Beach generally will be no greater than 19 illnesses per 1,000 swimmers, which is defined by the USEPA as an "acceptable health risk" in marine recreational waters.
10. The County of Los Angeles, Cities of Los Angeles and Culver City and California Department of Transportation (Caltrans) are the responsible jurisdictions and agencies for the Marina del Rey Watershed. The County of Los Angeles is the primary jurisdiction since they own and operate MdrH. The primary jurisdiction is responsible for submitting an implementation plan per the requirements of the TMDL.
11. During the adoption of the TMDL, the Regional Board recognized two broad approaches to implementing the TMDL. One possible approach is an integrated water resources approach that takes a holistic view of regional water resources management by integrating planning for future wastewater, storm water, recycled water, and potable water needs and systems; focuses on beneficial re-use of storm water, including groundwater infiltration, at multiple points throughout a watershed; and addresses multiple pollutants for which Marina del Rey Harbor or its watershed are listed on the CWA section 303(d) List as impaired. The other possible approach is a non-integrated water resources approach in which implementation is achieved by focusing on narrowly tailored, end-of-the-pipe solutions to improve bacteriological water quality without incorporating other environmental and public goals.
12. The Regional Board recognized that an integrated water resources approach not only provides water quality benefits to the people of the Los Angeles Region, but also that the responsible jurisdictions implementing this TMDL can serve a variety of public purposes by adopting an integrated water resources approach. An integrated water resources approach will address multiple pollutants, and as a result, responsible jurisdictions can recognize cost-savings because capital expenses for the integrated approach will implement several TMDLs that address pollutants in storm water. In addition, jurisdictions serve multiple roles for their citizenry, and an integrated approach allows for the incorporation and enhancement of other public goals such as water supply, recycling and storage; environmental justice; parks, greenways and open space; and active and passive recreational and environmental education opportunities.
13. The Regional Board acknowledged that a longer timeframe is reasonable for an integrated water resources approach because it requires more complicated planning and implementation such as identifying markets for the water and efficiently siting storage and transmission infrastructure within the watershed to realize the multiple benefits of such an approach.

Therefore, after considering testimony, the Regional Board revised the implementation provisions of the TMDL to allow for a longer implementation schedule (*up to 18 years*) if the responsible jurisdictions and agencies clearly demonstrate their intention to undertake an integrated water resources approach and justify the need for a longer implementation schedule. In contrast, the Regional Board required a shorter implementation schedule (*up to 10 years*) for non-integrated approaches because the level of planning is not as complicated.

14. The Regional Board has the authority to authorize compliance schedules through the basin planning process. In the TMDL, adopted by the Regional Board, the Regional Board established dual schedules for implementation that afford the responsible jurisdictions and agencies up to ten or eighteen years, depending on the implementation approaches pursued, to implement the TMDL.
15. The implementation provisions in Table 7-5.1 of the TMDL state that, "Within ten years of the effective date of the TMDL, compliance with the allowable number of wet-weather exceedance days and rolling 30-day geometric mean targets must be achieved, unless an Integrated Water Resources Approach is implemented (in which case compliance must be achieved in the shortest time possible but not to exceed 18 years from the effective date of the Santa Monica Bay Beaches Bacteria TMDL)" (Resolution 2003-012, Attachment A).
16. The final implementation schedule for the TMDL will be determined on the basis of the implementation plan. If the responsible jurisdictions and agencies prefer an integrated approach, the implementation plan must clearly demonstrate the need for the longer implementation schedule. Otherwise, at most a 10-year implementation timeframe will be allotted by the Regional Board, depending upon a clear demonstration of the time needed in the implementation plan.
17. Per the requirements set forth in the TMDL, responsible jurisdictions and agencies submitted a draft Implementation Plan to the Regional Board on March 30, 2005. Regional Board staff met with the responsible jurisdictions and agencies on May 9, 2005 to review and provide comments on the draft Implementation Plan. Regional Board staff also provided written comments to the responsible jurisdictions and agencies in a letter dated August 5, 2005. The responsible jurisdictions and agencies submitted a final Implementation Plan to the Regional Board on October 31, 2005.
18. The Implementation Plan submitted lays out a four-phase, iterative-adaptive program in which the responsible jurisdictions and agencies have made explicit commitments in the early stages of implementation to conduct focused public information and participation program, institutional and source control activities as well as specific structural best management practices (BMPs) at publicly-owned facilities.
19. The Implementation Plan incorporates the principles of an integrated water resources approach by implementing subregional solutions that integrate planning for future wastewater, storm water, recycled water and potable water needs and systems; address multiple pollutants; focus on beneficial re-use of stormwater; and incorporate other public goals.
20. The implementation schedule is phased over 16 years with a final compliance date of 2021 (18 years after the effective date of the SMB Beaches Bacteria Wet Weather TMDL). The Implementation Plan is divided into four phases. The first phase extends from July 2005 to June 2007; the second phase extends from July 2007 to June 2012; the third phase extends

from July 2012 to June 2017; and the fourth phase extends from July 2017 to final compliance in July 2021. Phase one and two emphasizes public information and participation programs and institutional and source control programs (nonstructural) and subregional runoff management solutions (structural) to reduce the contribution of bacteria and other pollutants of concern from storm water runoff. The phase one and two programs and projects focus on discharges of non-storm water and storm water directly into the back basins (Basins D, E, and F), that contribute to the greatest risk of exceedances of bacterial objectives. The third and fourth phases emphasizes refinement of institutional and subregional structural solutions based on performance evaluations conducted during Phases I and II. Feasibility analysis of regional control strategy will be initiated in Phase I.

21. The responsible jurisdictions and agencies have committed to implement two subregional structural projects by 2010 and to evaluate five additional projects by 2021. These seven projects along with commitments to implement 13 aggressive institutional programs are expected to achieve reductions in wet-weather exceedance days so as to meet the allowable wet-weather exceedance days set forth in the TMDL.
22. Regional solutions are a secondary resort in managing runoff and reducing bacteria loading at Mothers' Beach and the back basins of MdrH. However, due to scientific uncertainties it is not possible to guarantee that the implementation actions outlined in the Implementation Plan will achieve the necessary reductions in exceedance days as required by the TMDL. Therefore, it is essential to start the feasibility and conceptual analyses for regional solutions early in the implementation schedule, as proposed, in order to identify potential land requirements, physical limitations, and implementation issues. Because these regional solutions require a significant amount of time to plan and implement, beginning the feasibility analyses early will provide the responsible jurisdictions and agencies sufficient time to make changes and other arrangements and still keep to the implementation schedule.
23. Interested persons and the public have had reasonable opportunity to participate in the development and review of the Implementation Plan. The responsible jurisdictions and agencies held monthly meetings beginning in April 2004 to develop the Implementation Plan.
24. The final Implementation Plan submitted by the responsible jurisdictions and agencies to the Regional Board was posted on the Regional Board's website in advance of the April 6, 2006 Board hearing. A Notice of Hearing was published and circulated 30 days preceding Board action; Regional Board staff responded to oral and written comments received from the public; and the Regional Board held a public hearing on April 6, 2006 to consider support for the Implementation Plan.

THEREFORE, be it resolved that pursuant to Regional Board Resolution 2003-012, Attachment A, Amendment to the Water Quality Control Plan – Los Angeles Region to incorporate Implementation Provisions for the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Table 7-5.1, "Implementation", adopted by the Regional Board on August 7, 2003 and effective on March 18, 2004:

1. The Regional Board hereby acknowledges the submission of a draft Implementation Plan and final Implementation Plan dated October 31, 2005 by responsible jurisdictions and agencies in the Marina del Rey Watershed, including the County of Los Angeles, Cities of Los Angeles and Culver City, and California Department of Transportation, per requirements of the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL as set forth in Resolution 2003-012, Attachment A, Table 7-5.3.

2. The Regional Board hereby determines that to receive approval for its integrated water resource approach, the responsible jurisdictions and agencies in the Marina del Rey Watershed as identified in (1) shall submit to the Executive Officer information that the Implementation Plan that they intend to pursue is an integrated water resources approach as defined in the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Table 7-5.1.
3. The Regional Board hereby determines that assuming the responsible jurisdictions and agencies in the Marina del Rey Watershed as identified in (1) adequately comply with the terms of this resolution, they will have demonstrated based on their conceptual plan the need for the longer implementation schedule as outlined in the final Implementation Plan dated October 31, 2005, which commits to a final compliance date of July 2021.
4. Given the conceptual commitments to an integrated water resources approach and to achieving final compliance by July 2021 outlined in the Implementation Plan, the Regional Board strongly supports and encourages the efforts of the responsible jurisdictions and agencies to (1) prior to the TMDL reconsideration clearly commit to specific actions to be conducted, (2) aggressively implement these actions as outlined in the Implementation Plan and (3) make timely adjustments and refinements to the Implementation Plan to ensure that bacteriological water quality impairments at Mothers' Beach and the back basins of Marina del Rey Harbor are resolved in the shortest possible timeframe.
5. The Regional Board encourages an integrated water resources approach and recognizes that additional time may be necessary to pursue such an approach to TMDL implementation. In order to clearly justify an extended implementation schedule beyond 10 years and up to 18 years from the effective date of the Santa Monica Bay Beaches Wet-Weather Bacteria TMDL, the responsible jurisdictions and agencies are required to submit additional quantifiable analyses as described below to demonstrate (1) the proposed plans will meet the waste load allocations (WLAs) and (2) the proposed implementation actions will achieve multiple water quality benefits and other public goals.

The Regional Board strongly encourages responsible jurisdictions and agencies pursuing an integrated water resources approach to employ natural methods as opposed to end-of-pipe, whenever it would be effective and feasible.

6. Per the provisions of the TMDL, the Regional Board will determine, when the TMDL is reconsidered in 2007, if a longer implementation schedule (up to 18 years from the effective date of the Santa Monica Bay Beaches Wet-Weather Bacteria TMDL) shall be granted if there is a clear demonstration that an integrated water resources approach will be pursued.

The types of approaches proposed coupled with quantifiable estimates of the integrated water resources benefits of the proposed structural and non-structural BMPs included in the Implementation Plan would provide the obligatory demonstration that an integrated water resources approach is being pursued. This demonstration shall provide numeric estimates of the benefits, including reductions in other pollutants, groundwater recharged, acres of multi-use projects and water (e.g. stormwater, runoff, wastewater) beneficially reused among other integrated water resources criteria outlined in the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL. Responsible jurisdictions and agencies should submit to the Regional Board technically defensible quantifiable estimates of integrated benefits for actions to be implemented during Phase I (July 2005 to June 2007) and Phase II (July 2007 to June

2012) of the wet-weather implementation schedule. This information must be submitted within 9 months to allow sufficient time for staff analyses prior to the Board's reassessment of the TMDL, scheduled for July 2007.

7. The Regional Board recognizes that it is critical to establish a technically defensible quantitative linkage to the final WLAs to measure progress toward achieving the WLAs. The linkage should include target reductions in stormwater runoff and/or total coliform, fecal coliform and enterococcus using the 90th percentile year for each individual subwatershed.

The Regional Board also recognizes that it is essential to establish quantitative estimates of the water quality benefits provided by the proposed structural and non-structural BMPs to be implemented during Phase I of the wet-weather implementation schedule, and preliminary estimates of the benefits provided by the proposed BMPs to be implemented during Phase II of the wet-weather implementation schedule. These estimates, including a quantitative analysis of their linkage to the WLAs, are necessary to provide assurance that the compliance deadline will be achieved given the uncertainties involved in an integrated water resources approach. Estimates should address reductions in exceedance days, bacteria concentration and loading, and flow in the drain and at each compliance monitoring location. Responsible jurisdictions and agencies should submit such information to the Regional Board within 9 months so that the Regional Board staff will have time to assess the information in time for the reconsideration of the TMDL.

8. The Regional Board hereby directs staff to develop draft language for Board consideration that incorporates into the Los Angeles County Municipal Separate Storm Sewer System (MS4) NPDES permit at reissuance explicit requirements for responsible jurisdictions and agencies to submit regular reports to the Board on progress toward achieving the required reductions set forth in the TMDL. The regular reports may be submitted as part of the Los Angeles County MS4 Annual Program and Annual Monitoring reports. Reports on progress toward compliance with the TMDL shall include data and information on (1) water quality improvements in the receiving water; (2) the effectiveness of BMPs implemented as part of the Implementation Plan measured in terms of water quality improvement and quantity of wet weather runoff reduced, captured, treated, or infiltrated; and (3) the performance of other programmatic solutions, source identification activities and source control measures. Data on water quality improvements may include for example reductions in exceedance days compared to historical data and proposed milestones, where appropriate; the proportion of wet-weather days that exceed the water quality objectives by storm year as defined in the TMDL; and corresponding rainfall data as set forth in the Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan submitted by responsible jurisdictions and agencies.

Given the iterative approach outlined in the Implementation Plan, reports shall also include documentation on changes and refinements to the Implementation Plan based on the results of monitoring data, data on BMP effectiveness, and evaluations of pilot projects and other implementation actions under consideration. Such updates to the Implementation Plan shall include revised quantitative estimates of the water quality benefits of the proposed BMPs and the linkage to the waste load allocations identified pursuant to (7) above.

9. The Regional Board hereby further directs staff to develop draft language for Board consideration that incorporates into the Los Angeles County MS4 NPDES permit at reissuance specific provisions to reopen the TMDL section of the permit and incorporate, after providing the opportunity for public comment, TMDL-related provisions as well as

additional implementation actions, including but not limited to institutional controls, source identification and control, and structural and treatment controls if adequate progress is not being made to achieve compliance with the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL.

10. The Regional Board anticipates that the California Department of Transportation (Caltrans), as a responsible agency, will work cooperatively with the responsible jurisdictions and agencies under the Los Angeles County MS4 NPDES permit to achieve compliance with the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, including requirements as set forth pursuant to (8) and (9) above. In the event that Caltrans decides to proceed independently to address compliance with the TMDL, Caltrans will be required to achieve compliance with the wet-weather allowable exceedance days by March 2014.
11. The Regional Board hereby encourages responsible jurisdictions and agencies to begin feasibility studies and planning for regional solutions to managing wet weather runoff and bacteria loading early in the implementation schedule to ensure sufficient time to redirect implementation activities if necessary to include regional solutions and still achieve the final compliance deadline of July 2021.

I, Jonathan Bishop, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on April 6, 2006.



Jonathan S. Bishop
Executive Officer