



February 14, 2013

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, California 95814

**Re: Comments on the proposed approval of amendments to the *Water Quality Control Plan for the Los Angeles Region (Basin Plan)* to revise Total Maximum Daily Loads for Bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon, and to amend Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives ("Proposed Amendments")**

Dear Chairman Hoppin and State Board members,

On behalf of Heal the Bay and Los Angeles Waterkeeper and the thousands of our members who swim, surf and play in the waterbodies affected by the Proposed Amendments, we submit the following comments to urge the State Water Quality Control Board ("State Board") to maintain strong public health protections for the Los Angeles Region and reject the Proposed Amendments pending their revision as outlined by our comments below.

As demonstrated by the continued exceedances of the waste load allocations of the five bacteria TMDLs subject to the Proposed Amendments, the health and well-being of millions of swimmers, surfers and beach goers of all ages continues to be at risk at Los Angeles rivers and beaches designated for recreational use (Attachments A and B). While the Proposed Amendments are a step forward in some areas, overall the Amendments fall short of ensuring the highest level of public health protection that can and should be provided to all Los Angeles residents and visitors rightfully attracted by our world-famous beaches or looking to explore recreational opportunities at our rivers.

We strongly support that the Proposed Amendments *do not* include sub-seasons and preserve a rolling 30-day geometric mean period. This is the correct approach, as calculating a static (non-rolling) geometric mean per sub-season would inhibit the ability to track chronic pollution problems. However, as expressed in our comments on the Proposed Amendments submitted to



the Los Angeles Regional Water Quality Control Board (“Regional Board”),<sup>1</sup> we disagree with the Regional Board’s decision to continue using Leo Carrillo Beach as a reference beach for bacteria TMDLs in the Los Angeles Region. We appreciate this opportunity to express our concerns.

**A more appropriate reference beach, such as Nicholas Beach, should be used for Los Angeles Region Bacteria TMDLs**

While we believe that a reference beach approach is an appropriate way to develop fecal Bacteria TMDLs, Leo Carrillo Beach is no longer an appropriate reference beach for bacteria TMDLs in the Los Angeles Region. Based on Heal the Bay’s analysis of Beach Report Card data for the Region and the land uses and level of development in the Los Angeles Region watersheds, a more appropriate reference beach for our Region is Nicholas Beach, located at the bottom of the Nicholas Canyon watershed.

As the Regional Board explained when it initially developed the reference beach approach for fecal bacteria TMDL’s in the Los Angeles Region, Leo Carrillo Beach and the Arroyo Sequit watershed were selected as an “interim” reference system “until other reference sites ... are evaluated and the necessary data collected to support the use of alternative reference sites”.<sup>2</sup> The criteria for selecting an appropriate reference system include: 1) availability of adequate historic shoreline monitoring data at the beach, 2) lowest level of development in the watershed draining to the beach, and 3) existence of fresh water outlet (i.e. creek) to the beach.<sup>3</sup> The Regional Board’s original decision to choose Leo Carrillo Beach and its watershed as an interim reference site was primarily driven by the limited availability of historical shoreline monitoring data but the Regional Board unequivocally resolved to re-evaluate the use of Leo Carrillo Beach due to concerns with the development in close proximity to the beach.<sup>4</sup>

Shoreline monitoring data from the last 9 years has in fact confirmed the Regional Board’s concerns, demonstrating that Leo Carrillo Beach is not the appropriate reference site beach for fecal bacteria TMDLs in the Los Angeles Region. The data is unsurprising since Leo Carrillo Beach has significant development at the terminus of Arroyo Sequit Creek (the creek emptying at Leo Carrillo Beach), with numerous septic systems located near the bottom of the creek and by the beach as well as heavy use by campers of the areas in close proximity to the beach. The Regional Board’s Proposed Amendments contain no assessment of the current condition and effectiveness of these old and heavily used septic systems. As expressed in our previous comments, an analysis of the contributions of these systems to bacterial contamination in the lower watershed is long overdue and should be provided before Leo Carrillo Beach continues to

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<sup>1</sup> Our comments to the Regional Board are enclosed in this letter as Attachment C.

<sup>2</sup> Regional Board Resolution No. 2002-002

<sup>3</sup> See id. 4, ¶ 22

<sup>4</sup> See id.



be used as a reference site for more than sixty Santa Monica Bay beaches visited by approximately 50-60 million beachgoers annually.

While the Regional Board staff report states that "...Leo Carrillo Beach ensures equal protection across Santa Monica Bay beaches," a review of the Region's beach water quality data for the last six years clearly shows that Nicholas Canyon is a more appropriate reference beach, with significantly less exceedances of the fecal bacteria indicator standards (Attachment D). Furthermore, Nicholas Beach meets the rest of the reference beach selection criteria developed by the Regional Board. Nicholas Beach and the Nicholas Canyon watershed have a very low level of development, there is ample historical monitoring data and there is a freshwater outlet at the beach, Nicholas Creek. For all of these reasons and to ensure adequate protection of public health at all Los Angeles waterbodies used for recreation, an alternate reference beach, such as Nicholas Beach should be used.

In summary, Heal the Bay and Los Angeles Waterkeeper urge the State Board to decline approval of the Proposed Amendments and return the Amendments back to the Regional Board with directions to determine an appropriate reference beach, such as Nicholas Beach, and resubmit the Amendments for State Board approval. *See* Cal. Wat. Code § 13245 (the State Board may return a proposed basin plan revision to the regional board for further consideration and resubmission). Determining an appropriate reference beach is pivotal to public health protection throughout the Los Angeles Region.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Amanda Griesbach".

Amanda Griesbach, MS  
Water Quality Scientist  
Heal the Bay

A handwritten signature in black ink that reads "Kirsten James".

Kirsten James, MESM  
Water Quality Director  
Heal the Bay

A handwritten signature in black ink that reads "Tatiana K. Gaur".

Tatiana Gaur  
Staff Attorney  
Santa Monica Baykeeper

**1/1/2008 - 12/31/2008**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Southern								
SSH/Day	366	35	6,276	2,780	714	186	80	53
SSH/Night	365	704,820	4,341	2,856	360	9	2	6
CAB	366	1,144,175	17,726	7,652	732	33	94	63
WPT	366	725,250	19,879	4,473	807	33	152	11
ABC	234	62,320	3,043	655	124	3	42	43
TCO	366	1,786,955	22,437	9,293	776	123	520	225
CCO	366	1,396,075	24,998	8,382	775	85	359	297
RCO	366	1,619,350	30,482	11,255	1,178	89	310	146
HCC	366	3,205,800	67,748	21,612	1,407	169	830	681
MCP	366	2,712,750	50,414	17,670	1,109	100	536	574
MCO	366	1,537,030	24,021	8,354	717	55	219	252
ELP	366	1,788,050	34,914	18,592	794	84	371	493
ELS	366	558,290	18,994	5,997	686	38	100	150
DWS	366	4,173,700	95,918	28,402	1,859	114	350	886
DWN	366	1,313,350	24,332	10,306	1,347	50	119	114
Southern		22,727,950	445,523	158,279	13,385	1,171	4,084	3,994

**1/1/2008 - 12/31/2008**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Central								
CSH/Day	343	5,140	4,521	2,162	730	265	113	69
CSH/Swing	348	938,300	8,404	184	48	7	4	3
MDR	292	162,160	6,512	3,725	2	8	28	16
VNS	350	3,312,100	54,435	18,300	647	107	452	856
VNN	350	6,025,700	99,740	25,553	874	230	788	1,386
SMS	350	5,252,710	82,041	18,657	671	200	1,165	829
SMN	349	6,498,960	76,550	26,961	1,452	176	748	512
WRS	350	2,252,750	37,552	13,111	494	114	473	119
WRN	351	421,825	13,215	13,578	315	40	129	18
TOP	349	487,785	8,641	3,649	202	56	209	13
Central	25,357,430	391,611	125,880	5,435	1,203	4,109	3,821	

**1/1/2008 - 12/31/2008**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Northern</b>								
NSH/Day	366	0	4,693	2,203	642	159	73	38
NSH/Night	366	74,120	1,574	1,225	235	6	3	3
MAL	366	2,164,450	28,594	13,198	416	52	639	130
COR	366	269,325	7,579	4,696	0	9	109	5
PDC	366	1,134,500	25,982	8,476	627	43	378	121
NIC	366	251,195	3,711	3,188	5	3	61	13
ZUMA	366	7,107,300	181,161	32,719	1,528	151	1,698	2,328
Northern	11,000,890	253,294	65,705	3,453	423	2,961	2,638	
<b>Grand Total:</b>		59,086,270	1,090,428	349,864	22,273	2,797	11,154	10,453

**1/1/2009 - 12/31/2009**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Southern								
SSH/Day	363	10	4,023	2,355	491	142	98	23
SSH/Night	364	1,021,217	3,820	2,888	127	5	3	2
CAB	365	1,242,432	16,102	8,460	714	29	163	50
WPT	365	607,980	12,075	5,196	453	8	203	10
ABC	126	54,880	2,834	866	136	2	45	25
TCO	365	1,595,925	26,127	11,237	877	104	719	279
CCO	365	1,286,620	22,003	9,498	687	67	420	276
RCO	364	1,012,950	28,578	18,013	492	30	356	144
HCC	365	5,851,895	813,817	34,084	1,184	102	814	549
MCP	365	2,759,025	51,993	19,087	864	85	550	687
MCO	364	1,441,450	32,701	13,092	587	53	297	327
ELP	365	1,633,950	49,525	22,872	847	103	414	674
ELS	365	978,700	17,097	6,636	759	48	146	99
DWS	365	3,942,030	91,249	23,398	1,141	117	442	966
DWN	365	1,408,310	22,459	11,261	1,095	25	181	149
Southern		24,837,374	1,194,403	188,943	10,454	920	4,851	4,260

**1/1/2009 - 12/31/2009**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Central								
CSH/Day	361	10	8,790	4,845	974	348	294	131
CSH/Swing	361	1,146,650	1,594	1,006	187	27	4	6
MDR	143	169,015	9,597	5,209	3	3	39	26
VNS	363	4,850,600	59,109	22,308	782	88	594	511
VNN	363	7,332,551	120,567	35,524	2,060	190	1,027	2,186
SMS	363	8,144,230	96,553	32,759	1,219	200	1,225	1,237
SMN	363	7,641,600	92,375	39,750	1,460	158	890	643
WRS	361	2,594,215	38,330	16,031	910	103	554	168
WRN	360	316,330	19,993	7,566	495	26	145	51
TOP	363	396,826	8,319	5,478	207	24	238	15
Central	32,592,027	455,227	170,476	8,297	1,167	5,010	4,974	

**1/1/2009 - 12/31/2009**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Northern</b>								
NSH/Day	365	370	5,688	2,728	545	154	32	41
NSH/Night	365	66,875	1,709	1,386	152	1	2	3
MAL	365	2,361,250	26,004	12,452	378	66	656	158
COR	365	248,610	7,789	4,807	5	3	82	15
PDC	365	1,067,675	27,999	9,612	1,129	50	361	120
NIC	365	211,965	3,699	1,744	5	7	86	13
ZUMA	365	7,758,100	210,436	39,809	1,790	124	1,334	1,560
Northern	11,714,845	283,324	72,538	4,004	405	2,553	1,910	
<b>Grand Total:</b>		69,144,246	1,932,954	431,957	22,755	2,492	12,414	11,144

**1/1/2010 - 12/31/2010**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Southern								
SSH/Day	364	10	5,308	3,136	594	145	165	35
SSH/Night	364	706,700	4,441	3,288	235	6	3	2
CAB	364	1,065,550	15,635	7,902	567	26	147	58
WPT	364	491,220	9,531	5,012	478	8	169	3
ABC	123	67,025	3,572	795	138	1	61	49
TCO	364	1,661,850	22,885	10,121	834	63	479	183
CCO	364	1,439,050	21,262	8,595	1,028	35	391	169
RCO	364	1,146,730	23,620	14,818	503	38	300	67
HCC	364	4,010,900	70,202	23,978	830	77	735	430
MCP	364	2,754,250	43,746	17,992	567	49	498	356
MCO	364	1,200,200	18,651	8,388	515	62	213	160
ELP	364	1,511,800	32,016	18,533	686	96	355	296
ELS	364	752,950	11,912	6,687	466	26	108	37
DWS	364	2,398,200	52,768	23,565	971	88	335	467
DWN	364	1,199,850	17,609	11,029	638	26	140	74
Southern		20,406,285	353,158	163,839	9,050	746	4,099	2,386

**1/1/2010 - 12/31/2010**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Central</b>								
CSH/Day	364	55	5,538	12,161	842	389	324	43
CSH/Swing	364	1,188,900	1,638	1,132	134	16	5	3
MDR	154	150,275	7,408	4,129	5	5	33	12
VNS	365	3,411,200	43,517	19,718	741	87	473	401
VNN	365	4,946,900	70,016	29,886	1,622	258	968	914
SMS	365	6,299,940	60,109	20,252	1,196	160	1,181	520
SMN	365	6,568,950	80,594	33,610	1,135	159	872	439
WRS	364	2,497,400	28,966	12,938	829	85	467	80
WRN	365	689,070	13,242	7,979	376	16	156	19
TOP	363	373,235	5,246	3,896	102	17	223	11
	<b>Central</b>	<b>26,125,925</b>	<b>316,274</b>	<b>145,701</b>	<b>6,982</b>	<b>1,192</b>	<b>4,702</b>	<b>2,442</b>

**1/1/2010 - 12/31/2010**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Northern</b>								
NSH/Day	365	130	4,954	3,215	518	121	36	25
NSH/Night	365	89,890	2,011	1,718	163	7	1	14
MAL	365	2,236,250	27,570	15,500	416	79	724	83
COR	365	237,780	5,685	3,382	1	1	105	13
PDC	365	1,257,750	26,296	11,047	1,156	44	487	133
NIC	364	251,545	4,111	1,768	15	9	70	11
ZUMA	365	6,044,745	139,278	38,400	1,597	132	1,922	821
Northern	10,118,090	209,905	75,030	3,866	393	3,345	1,100	
<b>Grand Total:</b>		<b>56,650,300</b>	<b>879,337</b>	<b>384,570</b>	<b>19,898</b>	<b>2,331</b>	<b>12,146</b>	<b>5,928</b>

**1/1/2011 - 12/31/2011**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Southern								
SSH/Day	358	65	4,727	2,786	477	128	88	29
SSH/Night	363	669,875	4,495	3,288	185	13	3	
CAB	365	1,081,750	13,658	7,483	662	21	105	39
WPT	365	558,030	10,581	4,381	630	5	157	2
ABC	106	76,050	2,453	697	99	1	64	11
TCO	365	1,735,000	30,296	13,564	854	83	500	356
CCO	365	1,362,950	23,659	9,059	1,014	57	418	250
RCO	364	1,276,600	22,976	13,364	401	44	279	112
HCC	365	3,656,000	59,763	23,860	756	68	607	413
MCP	365	2,966,300	44,165	18,393	700	68	424	550
MCO	365	1,722,250	23,731	8,260	468	54	246	272
ELP	365	1,484,300	31,964	17,427	597	70	341	376
ELS	365	775,050	15,109	7,225	436	29	126	72
DWS	365	2,903,210	59,732	26,370	1,012	66	345	486
DWN	365	1,373,330	18,346	9,916	553	30	134	76
Southern		21,640,760	365,655	166,073	8,844	737	3,837	3,044

**1/1/2011 - 12/31/2011**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Central								
CSH/Day	364	10	5,715	5,528	938	415	369	57
CSH/Swing	364	1,107,950	1,420	983	120	19	3	6
MDR	100	180,795	7,170	4,255	3	4	21	8
VNS	365	3,634,400	48,277	21,923	794	74	591	523
VNN	363	6,289,955	70,903	27,991	1,487	197	813	738
SMS	365	7,133,700	57,363	21,190	1,641	233	1,196	657
SMN	365	6,850,000	74,169	32,526	1,255	138	959	408
WRS	365	2,285,100	27,778	14,349	962	67	506	85
WRN	365	581,227	8,323	5,447	475	19	170	28
TOP	365	265,675	5,841	3,500	303	17	342	18
Central	28,328,812	306,959	137,692	7,978	1,183	4,970	2,528	

**1/1/2011 - 12/31/2011**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Northern</b>								
NSH/Day	364	20	5,579	2,972	573	145	40	30
NSH/Night	365	214,425	1,876	1,684	164	4	1	3
MAL	365	2,523,000	32,637	15,431	293	54	885	164
COR	365	237,695	6,255	3,373		3	82	4
PDC	365	1,527,565	32,721	14,296	943	40	438	155
NIC	365	147,895	2,893	1,273	10	4	35	15
ZUMA	365	6,399,650	168,219	38,543	1,629	145	1,550	1,277
Northern	11,050,250	250,180	77,572	3,612	395	3,031	1,648	
<b>Grand Total:</b>		61,019,822	922,794	381,337	20,434	2,315	11,838	7,220

**1/1/2012 - 12/31/2012**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Southern								
SSH/Day	366	100	5,778	4,291	627	140	106	33
SSH/Night	366	633,650	4,549	3,494	251	6	4	2
CAB	366	1,475,650	16,265	9,236	749	22	136	72
WPT	366	604,725	10,117	5,046	617	4	144	11
RPV	64	9,390	530	539			3	
ABC	143	103,525	4,434	2,517	75	1	69	19
TCO	366	1,787,600	29,670	13,431	776	89	659	300
CCO	366	1,523,200	22,306	9,206	1,061	55	425	209
RCO	366	1,186,350	27,144	16,368	431	55	243	71
HCC	366	5,110,600	54,480	26,734	1,161	93	911	322
MCP	366	4,117,350	38,931	16,433	554	71	481	273
MCO	366	2,004,250	21,728	10,491	525	67	316	142
ELP	366	1,489,650	34,893	19,827	817	122	376	320
ELS	366	1,008,670	12,431	6,366	512	43	141	37
DWS	366	3,572,178	59,559	32,665	1,106	90	415	458
DWN	366	1,487,300	17,425	10,558	663	24	132	53
	Southern	26,114,188	360,240	187,202	9,925	882	4,561	2,322

**1/1/2012 - 12/31/2012**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
Central								
CSH/Day	360	20	5,444	3,454	977	431	434	42
CSH/Swing	361	1,422,200	1,850	1,366	135	10	1	4
MDR	111	206,985	9,184	5,781		7	56	14
VNS	363	4,889,960	45,413	20,900	974	141	420	348
VNN	365	8,284,210	61,504	24,761	1,540	193	952	753
SMS	365	10,081,195	75,799	28,923	1,892	260	1,495	512
SMN	364	9,573,765	74,097	42,046	1,481	180	1,065	352
WRS	362	2,841,590	26,642	14,104	863	72	500	53
WRN	363	540,063	7,637	5,097	367	9	177	9
TOP	365	362,790	7,776	3,328	339	20	385	16
Central	38,202,778	315,346	149,760	8,568	1,323	5,485	2,103	

**1/1/2012 - 12/31/2012**

Area:	Number of Days for which we have reports	Attd.	Prevs	Ords	EVR	Major	Minor	Rescues
<b>Northern</b>								
NSH/Day	366	200	5,551	3,153	528	134	57	33
NSH/Night	366	173,290	1,950	1,801	140	3	1	5
MAL	366	2,627,625	28,757	13,413	488	76	934	204
COR	366	288,355	7,303	4,432	1	5	124	14
PDC	366	1,936,700	31,157	13,007	1,065	32	433	172
NIC	366	189,010	4,190	1,616	2	1	45	9
ZUMA	366	6,297,500	144,040	35,820	1,834	137	1,527	1,831
Northern	11,512,680	222,948	73,242	4,058	388	3,121	2,268	
<b>Grand Total:</b>		75,829,646	898,534	410,204	22,551	2,593	13,167	6,693

## Total number of Santa Monica Bay Bacteria TMDL exceedances through 2012

Total	Location
485	Santa Monica Municipal Pier (point zero)
393	Ballona Creek entrance (point zero)
379	Cabrillo Beach - harborside at restrooms
361	Surfrider Beach (breach point)- daily (aka SMB-MC-2)
280	Redondo Municipal Pier - south side
276	Topanga State Beach
186	Marie Canyon storm drain at Puerco Beach, at 24572 Malibu Rd.
136	Solstice Canyon at Dan Blocker County Beach
128	Malibu Pier- 50 yards east
85	Santa Monica Canyon, Will Rogers State Beach (point zero)
78	Cabrillo Beach - harborside at boat launch
72	Paradise Cove, adjacent to westside of Pier (point zero)
69	Escondido Creek, just east of Escondido State Beach
60	Santa Monica Beach at Pico/Kenter storm drain (point zero)
50	Castlerock Storm Drain at Castle Rock Beach
42	Santa Monica projection of Wilshire Blvd. (point zero)
38	Latigo Canyon Creek entrance (point zero)
37	Redondo State Beach at Topaz St. - north of jetty
32	Puerco Beach, 25500 PCH (at lifeguard station) (point zero)
32	Heronado Street storm drain- (in front of the drain)
31	Will Rogers State Beach- Temescal Canyon (point zero)
29	Santa Monica at Montana Ave. (point zero)
27	16801 PCH, Bel Air Bay Club (chain fence) (point zero)
26	Carbon Beach at Sweetwater Canyon
26	Venice City Beach at Topsail St.
25	Manhattan Beach at 28th St. drain
24	Santa Ynez Storm Drain at Castle Rock Beach
23	Big Rock Beach, at 19900 PCH
21	Torrance Beach at Avenue I (point zero)
18	Redondo Municipal Pier 100 yards south
17	Hermosa Beach Pier- 50 yards south
16	Leo Carrillo Beach, at 35000 PCH (point zero)
15	Dockweiler State Beach at Culver Bl.
14	Zuma Creek (point zero)
14	Malibu Point
11	Ashland Av. storm drain (point zero)
11	Pulga Canyon storm drain (point zero)
11	Redondo State Beach at Sapphire Street
10	Malaga Cove, Palos Verdes Estates-daily
10	Trancas Beach entrance (point zero)
10	Venice City Beach at Windward Ave. (point zero)
9	PCH and Sunset Bl.- 400 yards east
9	Imperial HWY storm drain (point zero)
9	Las Flores State Beach at Las Flores Creek (point zero)
9	Manhattan Beach Pier (point zero)
8	Manhattan State Beach at 40th Street
7	Venice Fishing Pier- 50 yards south
7	Venice City Beach at Brooks Ave. drain (aka SMB-3-7)
6	Venice City Beach, at the Rose Ave. storm drain
5	Dockweiler State Beach- south of D&W jetty
5	Royal Palms State Beach

5	Santa Monica Beach at Strand St. (in front of the restrooms)
5	Dockweiler State Beach at Grand Av. (in front of the drain)
4	Cabrillo Beach, oceanside
4	Hyperion Treatment Plant One Mile Outfall
4	Nicholas Beach- 100 feet west of lifeguard tower (point zero)
4	Walnut Creek Malibu
3	Portuguese Bend Cove, Rancho Palos Verdes
2	Hermosa City Beach at 26th St.
2	Malaga Cove, Palos Verdes Estates-weekly
2	Wilder Annex, San Pedro
1	North Westchester Storm Drain at Dockweiler State Beach
1	Pena Creek at Las Tunas County Beach
1	Public stairway at 24822 Malibu Rd.
1	Long Point, Rancho Palos Verdes (aka SMB-7-3)

**3721 \* 9/14/2006-10/31/2006**

Total	fldLocName
174	Marina del Rey, Mothers' Beach-Playground area (aka MdrRH-1)
94	Marina del Rey, Mothers' Beach-lifeguard tower
11	Marina del Rey, Mothers' Beach-btwn. Tower and Boat dock (aka MdrRH-3)

**279 \*\* 8/9/2007-10/31/2007**



May 7, 2012

Man Voong  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West Fourth Street, Suite 200  
Los Angeles, California 90013

**Re: Comments on the proposed amendments to the *Water Quality Control Plan for the Los Angeles Region* to revise Total Maximum Daily Loads for Bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon, and to amend Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives ("Draft Amendments")**

Dear Mr. Voong,

On behalf of Heal the Bay and Santa Monica Baykeeper ("Baykeeper") and the thousands of our members who swim, surf and play in the waterbodies affected by the proposed Draft Amendments, we submit the following comments to urge the Los Angeles Regional Water Quality Control Board ("Regional Board") to maintain strong public health protections against the well-documented harmful effects of waterborne bacteria.

As the plaintiffs in the 1998 Clean Water Act citizen action which led to the adoption of the Santa Monica Bay Beaches Bacteria TMDL and as key stakeholders in the development of the Santa Monica Bay Beaches Bacteria TMDL, which serves as a model for other Bacteria TMDLs in the Region, Heal the Bay and Baykeeper have a strong interest in ensuring that all Bacteria TMDLs provide maximum public health protection. Our groups have closely followed the development of each Bacteria TMDL, providing public comments during every step of their development and implementation. We firmly believe that the regulatory framework, the science and the data underlying the TMDLs all demonstrate the need to strengthen these TMDLs and the critical protections against human illnesses resulting from exposure to bacteria at our rivers and beaches. We urge the Board to do just that.<sup>1</sup>

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<sup>1</sup> We appreciate the opportunity to provide these comments. Our comments are limited to the scope of the reconsideration envisioned in the original Bacteria TMDL and the proposed changes to the Basin Plan Amendment, as indicated by strikethrough's and underlined format in the tentative documents:



### **The Regional Board should preserve a rolling 30-day geometric mean period**

We urge the Regional Board to preserve a **rolling 30-day geometric mean period**, which is critical for tracking and identifying chronic water quality problems. This is extremely important for public health protection of beachgoers on a day to day basis. The Regional Board staff is proposing a longer six-week geometric mean period. A shorter geometric mean period is more technically sound because it allows for a more comprehensive analysis, which can better account for the beach water quality fluctuations that may be masked with a longer period. As demonstrated in the attached Table, using the six week geomean period results in lower protection.

According to EPA's 1986 Recreational Beach Water Quality Criteria, the current water quality monitoring recommendation is no less than five samples equally spaced over a 30-day period. California's Ocean Plan is identical to USEPA's geometric mean water quality monitoring guidelines. Additionally, the California Department of Health Services' *Draft Guidance for Salt and Freshwater Beaches* recommends a "...a 30-day sampling period in order to provide the minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas." There is no justification for the Regional Board to provide a different calculation in the Draft Amendments.

While we support zero (0) exceedances of the geometric mean, we believe the proposed increase in the geometric mean period is unjustified as it will result in decrease in public health protections. Instead, the Regional Board should take the most protective approach and maintain the existing rolling 30-day geometric mean period, at the minimum.

### **The Regional Board should use a more appropriate reference beach such as Nicholas Beach**

While we believe that a reference beach approach is an appropriate way to develop fecal Bacteria TMDLs, Leo Carrillo Beach is no longer an appropriate reference beach for bacteria TMDLs in the Los Angeles Region. Based on Heal the Bay's analysis of Beach Report Card data for the Region and the land uses and level of development in the Los Angeles Region watersheds, a more appropriate reference beach for our Region is Nicholas Beach, located at the bottom of the Nicholas Canyon watershed. Consequently, the Regional Board can no longer rely on Leo Carrillo Beach as the reference beach for our Region but should instead explore other, more appropriate reference beach locations such as Nicholas Beach in the Draft Amendments.

As the Regional Board explained when it initially developed the reference beach approach for fecal bacteria TMDL's in the Los Angeles Region, Leo Carrillo Beach and the Arroyo Sequit watershed were selected as an "interim" reference system "until other reference sites ... are



evaluated and the necessary data collected to support the use of alternative reference sites”.<sup>2</sup> The criteria for selecting an appropriate reference system include: 1) availability of adequate historic shoreline monitoring data at the beach, 2) lowest level of development in the watershed draining to the beach, and 3) existence of fresh water outlet (i.e. creek) to the beach.<sup>3</sup> The Regional Board’s decision to choose Leo Carrillo as an interim reference site was primarily driven by the limited availability of historical shoreline monitoring data but the Board unequivocally resolved to re-evaluate the use of Leo Carrillo Beach due to concerns with the development in close proximity to the beach.<sup>4</sup>

Shoreline monitoring data from the last 9 years has in fact confirmed the Regional Board’s concerns, demonstrating that Leo Carrillo Beach is not the appropriate reference site beach for fecal bacteria TMDLs in the Los Angeles Region. The data is unsurprising since Leo Carrillo Beach has significant development at the terminus of Arroyo Sequit Creek (the creek emptying at Leo Carrillo Beach), with septic systems located near the bottom of the creek and heavy use by campers of the areas in close proximity to the beach. Staff’s proposed Draft Amendments contain no assessment of the current condition and effectiveness of these old and heavily used septic systems. An analysis of the contributions of these systems to bacterial contamination in the lower watershed is long overdue and should be provided before the Regional Board can continue to rely on Leo Carrillo Beach as a reference site.

While the Regional Board staff report states that “...Leo Carrillo Beach ensures equal protection across Santa Monica Bay beaches,” a review of the Region’s beach water quality data for the last six years clearly shows that Nicholas Canyon is a more appropriate reference beach, with significantly less exceedances of the fecal bacteria indicator standards (see attached Tables 1 & 2). Furthermore, Nicholas Beach meets the rest of the reference beach selection criteria developed by the Regional Board. Nicholas Beach and the Nicholas Canyon watershed have a very low level of development, there is ample historical monitoring data and there is a freshwater outlet at the beach, Nicholas Creek. For all of these reasons, the Regional Board should use another reference beach alternative, such as Nicholas Beach.

### **The Regional Board should use a more representative data analysis period for Leo Carrillo Beach**

While the best approach for the Draft Amendment is to select a new reference site such as Nicholas Beach, we urge the Regional Board, at the minimum, to select a more appropriate data analysis time period if Leo Carrillo Beach remains as a reference site. The Regional Board’s analysis of monitoring data (2004 to 2010) collected at “point zero” from Leo Carrillo Beach shows an exceedance increase during summer and winter dry weather periods. Thus, the Regional Board should include only the last five years of monitoring data (2006 to 2011) to

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<sup>2</sup> Regional Board Resolution No. 2002-002

<sup>3</sup> See id. 4, ¶ 22

<sup>4</sup> See id.



remove any bias in the exceedance probability created due to the extreme wet weather conditions experienced in the 2005-2006 winter season. This bias is demonstrated in the attached Table 1.

### **The Regional Board should not implement sub-seasons in the Draft Amendment**

It is inappropriate for the Regional Board to divide the geometric mean calculation period into sub-seasons for the Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL as proposed in the Draft Amendment. Calculating a static (non-rolling) geometric mean per sub-season would inhibit the ability to track chronic pollution problems, and is inconsistent with the rolling geometric means proposed in the Draft Amendment for Santa Monica Bay, Marina del Rey, LA Harbor and Cabrillo Beach, and Malibu Creek Watershed Bacteria TMDL's. Why did staff propose a different approach for this TMDL? Instead, this proposed approach would simply provide regulatory relief to dischargers and would be disastrous for public health protection. We urge the Regional Board to remove geometric mean sub-season periods and instead retain a rolling 30-day geometric mean for both wet and dry weather, in order to provide continuous public health protection.

### **The Regional Board should not use the 90<sup>th</sup> percentile storm year to determine exceedance rates**

The proposed Draft Amendment uses the number of wet weather days during the 90<sup>th</sup> percentile storm year to determine the number of days of allowable number of exceedances. Because the 90<sup>th</sup> percentile rain event year is used to determine the number of allowable exceedances, during 90% of all years analyzed, the actual number of exceedances at the reference location will be less than the allowable number of exceedances. Thus, in 90% of the years the TMDL does not truly account only for natural conditions. Heal the Bay has expressed its concern over this methodology in our comment letters regarding both the dry and wet bacteria TMDL's for Santa Monica Bay Beaches. Instead, we suggest that the Regional Board use the median or 50<sup>th</sup> percentile storm year.

### **Miscellaneous**

- As you know, the TMDL allows for additional compliance time when an integrated approach to wet weather TMDLs is pursued. We supported this concept, as it is extremely important to look at water issues comprehensively. Most dischargers appear to be taking this added time as a "given." What evaluation has been done by the Regional Board to ensure that this extra time is truly merited and progress to this end is occurring? We have seen no confirmation to date. As part of this reopener process, we



strongly urge the Regional Board to set strong criteria for being eligible for this extra time and to evaluate what has occurred to date.

- The notice mentions an amendment to Chapter 3. What does this entail? We do not see any such proposed changes in the documents distributed.
- We are encouraged that the Regional Board decided not to use “ghost data”<sup>5</sup> when determining the geometric mean. These data may misrepresent actual water quality and fluctuations, thereby giving the public a false sense of security or misrepresentation of poor water quality conditions.

In summary, Heal the Bay and Baykeeper strongly urge the Regional Board to ensure that water quality standards are met and public health is not compromised for years to come. The Bacteria TMDLs reconsiderations should not be used to relax water quality protection at the expense of beachgoers and our vitally important tourist economy. To that end, the proposed Draft Amendments should be revised to preserve the rolling 30-day geometric mean to accurately account for water quality fluctuations and better protect the public from bacteria pollution. Furthermore the proposed static seasonal geometric mean should be removed from the Ballona TMDL. Finally, the Regional Board should not longer use Leo Carrillo Beach as the most appropriate reference beach for our Region but should instead rely on Nicholas Beach or another more appropriate location.

Thank you for the opportunity to comment.

Sincerely,

Amanda Griesbach, MS  
Water Quality Scientist  
Heal the Bay

Kirsten James, MESM  
Water Quality Director  
Heal the Bay

Tatiana Gaur  
Staff Attorney  
Santa Monica Baykeeper

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<sup>5</sup> A monitoring location’s data extrapolated to unmonitored days.

**Total Exceedances (Geometric Mean and Single Sample) by Percent Comparison between  
Leo Carrillo Beach and Nicholas Canyon**

Site	SampleCount	Time Period
		Summer Dry (April - Oct)
Leo Carrillo (11/1/2004 - 10/31/2010)	187	16.6%
Leo Carrillo (04/01/2007 - 10/31/2011)	158	7.6%
Nicholas Canyon (11/1/2004 - 10/31/2010)	171	1.8%
		Winter Dry (Nov - Mar)
Leo Carrillo (11/1/2004 - 10/31/2010)	96	20.8%
Leo Carrillo (04/01/2007 - 10/31/2011)	86	19.8%
Nicholas Canyon (11/1/2004 - 10/31/2010)	90	12.2%

**TABLE 1**

Comparing different Geomean calculations for Enterococcus using Regional Board Leo Carrillo data for different seasonal periods					
Site	Time Period	Sample Count	GM count	GMx Count	GMx%
Leo Carrillo	Summer Dry (Standard 30-day geomean calculation with >4 samples)	187	167	28	16.8%
Leo Carrillo	Summer Dry ( <b>Six week (42-day)</b> geomean calculation with >4 samples)	210	198	27	13.6%
Nicholas Canyon	Summer Dry (Standard 30-day geomean calculation with >4 samples)	171	139	0	0%
Leo Carrillo	Winter Dry (Standard 30-day geomean calculation with >4 samples)	96	34	12	35.3%
Leo Carrillo	Winter Dry ( <b>Six week (42-day)</b> geomean calculation with >4 samples)	102	53	10	18.9%
Nicholas Canyon	Winter Dry (Standard 30-day geomean calculation with >4 samples)	90	23	1	4.3%

**Table 2**