Heal the Bay®

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

January 20, 2015

California Regional Water Quality Control Board
Los Angeles Region
Attn: Valerie Zara
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

**Re: Waste Discharge Requirements (WDR's) for Proposed Maintenance Clearing of Engineered Earth-bottom Flood Control Channels Project (R4-2015-00XX).**

Dear Mrs. Zara:

On behalf of Heal the Bay, we submit the following comments on the Tentative WDR for the proposed maintenance clearing of engineered earth-bottom flood control channels project, various watersheds within Los Angeles County. We appreciate the opportunity to provide these comments.

## General Comments

***No Remedy for past Non-Compliance***

In reviewing this WDR, there was no information in the permit on remedies for non-compliance with permit or certification conditions related to this project. As stated in this WDR, the County was required to complete additional hydrological analysis and assessment of biological functions and values for each reach." (page 3, point 21; page 7, point 32) in 2008 and 2011. The WDR goes on to state that the information was never submitted.

In the 1999, 2003, and 2009 401-certifications issued to the LACDPW, there were a number of conditions that required monitoring and or baseline assessments to be conducted prior to and after any channel maintenance work, such as sediment, trash, and vegetation loads. The intent of those WDR's was to develop data for trends analysis. Was this data component completed?

Water quality monitoring was required as part of the 2010 WDR. If certain criteria standards were exceeded then additional water quality analytes and BMP actions were required. However, there was little to no action taken by the LACDPW when channel maintenance activities in the Pacoima Wash and Walnut Creek exceeded TSS/Turbidity standards

Without this critical monitoring and reporting information, how can the RWQCB continue to issue permits for this discharge that are protective of receiving waters and beneficial uses?

Heal the Bay®

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

Further, how can the public determine the extent of impact over time, if no requirements for data analysis of past practices compared to current practices are stated? In addition, even if such data collection and analysis are required, what remedies does the public have if the data requirements are 1) insufficient, 2) incomplete, or 3) ignored?

This "channel maintenance" practice has been taking place under the RWQCB regulatory jurisdiction for nearly 20 years, yet so little trends assessment has been completed over that same time period. The lack of any trends assessment (sedimentation rates, flow volumes, trash accumulation, sediment chemistry, biomass, plant speciation (percent cover, density, and diversity) makes it impossible to determine if we are actually meeting beneficial-uses associated with habitat. With all of the County's channel maintenance activities, how is the RWQCB protecting existing stream and river beneficial uses, ensuring progress towards TMDL compliance, MS4, or ensuring other Basin Plan objectives are met if no water quality, flow volumes, or biological monitoring are not regularly collected and then analyzed.

For example, given that the grading work requires the denuding of large amounts of acreage prior to the rainy season, sedimentation through erosion of disturbed soils will occur. The WDR as drafted does not provide assurance that sediments (contaminated or not) do not enter the receiving water and impact downstream resources during and after construction. This is especially concerning for those reaches with identified impairments or developed TMDLs. There are a number of current and future TMDL requirements in place for the LA River (Bacteria, Metals, Toxicity, and Trash) and Malibu Creek (Sediment, Bacteria, Metals, and Nutrients). As such, waste load allocations and load allocations are required for each pollution source that has a reasonable potential to cause or contribute to a water quality standard exceedance. Maintenance and grading activities meet the reasonable potential standard for these water bodies because sediments often are repositories for fecal bacteria, nutrients and metals. Yet the WDR fails to detail how this will happen without required monitoring. Maintenance activities need to be part of TMDL implementation and compliance assurance programs. What is the Regional Board doing to ensure that maintenance impacts are covered under pertinent water quality policies?

***No Discussion of Relevant Policies***

Similar to past Los Angeles County's Department of Public Work's (LACDPW) 401-certification applications for the proposed maintenance clearing of engineered earth-bottom flood control channels project, there is little to no discussion of water quality or water resource management policies or strategies of the Regional Water Quality Control Board (RWQCB), State Water Resources Control Board (SWRCB), or Los Angeles County that are relevant to this WDR permit. The only water resource management policy discussed in this WDR is LACDPW's FEMA Levee Certification (page11; points 50 through 55) and the USACE's Engineers Levee Requirements (page 12; 56 and 57).

And similar to past applications, absent from this WDR is any dialogue on water resource/watershed management strategies to deal with flow reductions or habitat

Heal the Bay®

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

enhancement policies to these waterbodies requiring 'channel maintenance'. For example, the following should have be considered in the context of these WDRs: the RWQCB's Standard Urban Stormwater Mitigation Plan (SUSMP) requirements, the RWQCB's many TMDL Basin Plan Amendments, the RWQCB's Enhanced Watershed management Plans and Watershed Management Plans, the County's and municipalities Low Impact Development Ordinances, the Integrated Regional Water Management Plan (IRWMP), the County's Watershed Management Division 2008 Strategic Plan, the Los Angeles River Revitalization Plan, the Los Angeles Basin Stormwater Conservation Study, and the City and County's Drought Management Plans. All of these policies or planning documents discuss best management practices and tools for managing and reducing runoff flows to receiving waterbodies. Highlighting strategies and policies that deal with the 'input' component of hydrologic capacity is critical to this WDR because 'Lost hydrologic capacity' is often cited as a reason to remove vegetation and sediment, and therefore destroy habitat, from these earthen bottom creeks, streams, or rivers. Yet, there is never a discussion regarding these policies or mechanisms, some already in place, to reduce runoff amounts entering these receiving waterbodies. In other words, if these many plans and policies are being implemented appropriately, then the public should see a subsequent reduction over-time for the need to remove vegetation from these channels and destroy habitat.

As for ecosystem restoration and habitat protection, those elements are "main features" in the County's Watershed Management Division's 2008 Strategic Plan. Yet, the WDR fails to score the relevancy of these projects to the proposed channel maintenance.

In sum, the RWQCB needs to take an integrated watershed management approach, where water resource management, water quality requirements, watershed hydromodifications, and ecological protection, are all taken into consideration for regulatory actions. Ultimately, this means that the RWQCB needs to integrate Clean Water Act Policies, such as 303, 305, 319, 401, 402, and 404, into an overarching program that enables Basin Plan water quality standards to be met in each of the watersheds. Unfortunately, that data and policy integration in this WDR is completely absent. Again, does the RWQCB have any goals or objectives for:

- Reducing the frequency of disturbance in earthen-bottom creeks, streams or rivers?
- Reducing the number of reaches needing "maintenance"?
- Reducing the hydromodification impacts (downstream scour, sedimentation, and erosion) of increasing peak flow velocities through channelization and maintenance?
- Reducing the continued loss of earthen-bottom creeks, streams, or rivers to complete channelization?
- Promoting restorative best management practices with native plants to reduce sediment and or contaminant loading after "maintenance"?

As written, this WDR continues the piece-meal, singular approach to watershed management that makes it impossible to assess the level of protection needed to ensure receiving water beneficial uses for water quality and habitat are met.

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

Heal the Bay®

***Updating Outdated Reference Material***

Heal the Bay is excited that 1999 Maintenance Plan is being updated and scheduled to be completed in 2017. Unfortunately, this WDR will have already been adopted and in effect for another 5-years based on outdated data. As such, it is quite feasible that the 2017 maintenance Plan won't be implemented until the 2020 WDR is adopted.

***Monitoring***

The WDR requires a very limited, one-time monitoring program to be implemented as part of the Feasibility Study. The required monitoring is to take place before, after, and during maintenance clearing for each reach impacted. There are a number of issues with this approach, namely:

- A one-time grab sample for each reach over the next five or more years is not statistically significant to make any determination about the impacts from the maintenance activity at specific reaches, other than indicating what is happening at that moment. Heal the Bay recommends that sampling take place every year the LACDPW conducts maintenance activities within any of the reaches.
- There is no wet weather sampling event. An additional wet weather sample needs to be added to the monitoring program, which would mean that four (4) samples must be collected from each site. Most of the water quality impacts from the LACDPW maintenance activity to receiving waterbodies are likely to occur during the first rain event.
- There are no upstream (reference condition) or downstream (off-site impacts) sampling stations of the impacted reach. These monitoring data points help determine water quality changes relative to reference conditions and downstream impacts to receiving waterbodies. As such, two additional monitoring locations need to be added to the monitoring program for each reach. The monitoring program for each reach where LACDPW maintenance activities take place should have at least three (3) sampling stations: above project site, at the project site, and below the project site.
- The water quality assessment treats all reaches the same, in terms of waterbody length and width, and overall area impacted. In reality, the geographic area impacted differs, and therefore the amount work, type of machinery, and volume of sediment removed differs from reach to reach. As such, the smaller reaches may be appropriately sampled with a single monitoring event (12 total samples collected). However, one monitoring station may not be sufficient for larger reaches, such as the Compton Creek reach—approximately 2.1 miles long. One sampling station for this reach would be completely inadequate. As such, Heal the Bay recommends that for those reaches greater than half a mile in length, multiple monitoring stations be required—one additional location for every additional half mile. Therefore, a reach such as Compton Creek would require five (5) sampling stations.

The proposed monitoring program in the WDR requires monitoring for dissolved oxygen, pH, turbidity, total suspended solids, and temperature. We recommend that additional

Heal the Bay®

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

constituents be added to this list, such as nutrients, metals, and trash. There are a number of current TMDL requirements in place for the LA River (Bacteria, Metals, Toxicity, and Trash) and Malibu Creek (Sediment, Bacteria, Metals, and Nutrients). In addition, there are many TMDLs yet to be adopted. As such, waste load allocations and load allocations are required for each pollution source that has a reasonable potential to cause or contribute to a water quality standard exceedance. While a discharge of material does not take place immediately after the clearing and dredging, a discharge of sediment (contaminated or not) does take place subsequent to the first large rain event. Maintenance and grading activities have met the reasonable potential standard for these water bodies because sediments often are repositories for fecal bacteria, nutrients and metals. Therefore, the LACDPW maintenance action constitutes a possible source. Yet the WDR fails to detail how WLA and LAs will be met and how monitoring will be sufficient to understand the pollutant contribution. Therefore, Heal the Bay recommends the following constituent monitoring program:

- Basic monitoring:
    - Dissolved Oxygen; pH; turbidity; temperature; Total Suspended Solids (TSS); and Nutrients (Ammonia and Nitrite/Nitrate) through the use of field techniques such as meters.
- Additional monitoring:
    - When turbidity levels exceed the stated thresholds in the WDR, then additional constituents to be monitored will be required.
    - Additional constituents to be monitored will include: Hardness and Metals.

In addition, Heal the Bay believes that these water quality monitoring requirements should apply to all reaches where LACDPW conducts maintenance, not just the watershed where the feasibility study is implemented during a given year.

## Specific Comments on Additional Conditions

***Permitted Activities***

**Condition Maintenance of All Existing Invert Access Ramps#13 and Additional Findings#43:** Given the limited riparian habitat in Los Angeles County, why would flow and water quality monitoring systems be placed in such critical habitat areas? What was the rationale? There are plenty of upstream and downstream concreted sections associated with the receiving waterbodies listed in this WDR where such equipment should have been placed. Is there a list of waterbodies where the gauges require a "3-foot" vegetated and sediment buffer?

Heal the Bay®

1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

Thank you for the opportunity to comment, and if you have any questions please feel free to contact us at (310) 451-1500 ext.115.

*James Alamillo*

James Alamillo
Urban Programs Manager
Heal the Bay