

Comment Summary and Responses
Comment Deadline: 5:00 PM on May 18, 2018

**Tentative Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Certification for
Maintenance Clearing of Engineered Earth-Bottom Channels for Flood Control**

Comment Reference	Commenter
1	Los Angeles County Flood Control District (LACFCD), May 18, 2018
2	Los Angeles Waterkeeper (LAW), May 18, 2018
3	Carole Bartolotto, May 19, 2018 (LATE COMMENT)

No.	Author	Comment	Response
<i>County of Los Angeles Department of Public Works, May 18, 2018</i>			
1.1	LACFCD	Cover page Replace Sree Kumar's phone number to: (626) 458-4145	The tentative WDRs have been updated with the correct number.
1.2	LACFCD	T.O.C. Change Attached A to "Master Maintenance Plan" and standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the tentative WDRs for clarity and consistency with other agencies.
1.3	LACFCD	IV, a.1 Edit 3rd sentence to the following "This includes flood control facilities consisting of 3,330 3,380 miles of underground storm drains; 472 173 debris basins;....concrete channels".	The tentative WDRs have been revised with the updated numbers.
1.4	LACFCD	IV.a.6. Do not include the debris basin count as this number is continuously changing.	While the number of debris basins that LACFCD maintains does change over time, Finding IV.a.6 specifically identifies the number of debris basins for which Water Quality Certification File No. 02-144 authorizes maintenance, which is 172 debris basins. Finding IV.A.1 has been revised to state that the LACFCD is responsible for "an estimated" 173 debris basins.

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1.5	LACFCD	<p>IV, a, 7</p> <p>Edit this item to the following" LACFCD maintains 40095 earthen-bottom channels-reaches through this WDR and 401 Certification. The 40095 channels-reaches include a total of 45-about 43 miles of waterways throughout Los Angeles County and approximately 9471,276 acres of jurisdictional waters of the United States. The acreage authorized to be impacted by this Order is 734 acres."</p>	<p>After further discussion with the commenter, we have clarified that the previously authorized reaches 34, 74, 106 and 107, were not intended to be included in the ROWD and are not included in these WDRs.</p> <p>The reach number in the tentative WDRs has been updated to 96. We note that the Master Maintenance Plan (MMP) includes a list of 99 reaches numbered 1 to 110 because reaches 25a and 25b have been listed as one reach, reach 44 has been split into 3 reaches and reaches 34 and 74 are included just to note that no LACFCD maintenance will be conducted in these reaches.</p> <p>The tentative WDRs have been revised with the updated number of reaches, miles and acres.</p>
1.6	LACDPW	<p>IV, a, 9</p> <p>Edit this item to the following "LACFCD maintains flood control facilities to meet a number of different requirements, depending on when the flood control facility was built and which agency built it; in some cases, LACFCD must provide protection up to the 500100-year storm."</p>	<p>The tentative WDRs have been revised with the updated number.</p>
1.7	LACFCD	<p>IV, a, 13</p> <p>Revise the last sentence to the following, "The ACOE inspects levees in Los Angeles County and may requires risk reduction improvements to the levees by LACFCD."</p>	<p>The tentative WDRs have been revised to incorporate the change for clarity.</p>

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1.8	LACDPW	IV. a. 15 Edit this item to the following "During the winter storm season (Oct. 15-Apr. 15) , LACFCD personnel will continually monitor flow conditions in channels and inspect facilities."	The tentative WDRs have been revised to include the dates of the storm season.
1.9	LACFCD	IV.a.18. The feasibility study veg maps don't show impacted veg. They show types of veg present. Please revise to, "LACFCD has developed and published watershed maps, which indicate areas of maintenance (impact acreages and types of vegetation impacted) types of vegetation present in the channel reaches and approximate schedules..."	The tentative WDRs have been corrected.
1.10	LACDPW	IV.b.22. Edit the second sentence to delete the word "clearing": "...these maintenance clearing activities to meet..." so structural repair activities are included.	The tentative WDRs have been changed to state, "...these maintenance activities, which primarily involve clearing, ..." because clearing is the primary type of maintenance authorized under these WDRs.
1.11	LACFCD	IV.c.37. Revise the second and third sentences as follows: "The latest Nationwide Permit was issued in September 2014 May 2018 ."	The tentative WDRs have been updated to include the date of the recently-issued ACOE permit.
1.12	LACDPW	IV.c.38. Revise first sentence to: "...due to channels being combined or removed , or the addition of new channels."	The tentative WDRs have been corrected.
1.13	LACFCD	IV. c. 38 Revise the last sentence to: "The ACOE normally incorporates special conditions such as avoidance of nesting	No change has been made to the tentative WDRs because there can be different nesting seasons specified in the

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		seasons (March 15 - August 31) or hand clearing for reaches it deems to be sensitive."	ACOE 404 permit; e.g. primary nesting season (March 15 – August 31) or southwestern willow flycatcher nesting season (March 15 – September 15).
1.14	LACDPW	IV.c.58. iv. & v. Add reach numbers after all reach names, "...Compton Creek (Reach 24)...Bull Creek (Reach 7) and Pickens Canyon (Reach 19)..."	The tentative WDRs have been revised for clarity.
1.15	LACFCD	IV.c.61. Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.16	LACDPW	IV.c.62. Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.17	LACFCD	IV.d.63. Revise this item to the following: "The reaches for maintenance clearing activities are covered..."	See response to comment 1.10.
1.18	LACDPW	IV.d.69-74 Delete Items 69-74. Since this is a maintenance permit, these items are best addressed in permits for projects that are implemented as a result of these Stormwater Management Plans.	No change has been made to the tentative WDRs. These are "Findings." Findings of a WDR do not include requirements. These Findings describe scope of stormwater planning in Los Angeles County so that these WDRs can be seen in context.
1.19	LACFCD	V. Please revise to, "Total Project fill/excavation quantities for all impacts determined in 1997 are summarized in Table 1,	The tentative WDRs have been corrected.

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		below." Replace 48.2 acres with 734 acres in Table 1. Justification: The 48.2 acres were the <u>new</u> impacts in 1997. This total did NOT include existing impacts. 734 acres is the total impacts as measured in 2018, following the 1997 maintenance practices.	
1.20	LACDPW	VI Edit the first sentence to: "LACFCD conducted Feasibility Studies for the reaches in the Los Angeles River, San Gabriel River, Malibu Creek, Dominguez Channel, Antelope Valley, and Santa Clara River between 2013 and 2018 including every reach covered in this Order."	The tentative WDRs have been revised for clarity.
1.21	LACFCD	IX. Please revise to, "An additional fee of \$128,500 based on total 1997 Project impacts was received on DATE." We are searching through our records to find this date.	The full fee for proposed project impacts per California Code of Regulations, Title 23. Division 3. Chapter 9. Waste Discharge Reports and Requirements, must be received before the adoption of the WDR.
1.22	LACDPW	X. a. 1 Edit the first sentence to: "Conduct maintenance of 400 95 earthen-bottom channel reaches...."	See response to Comment No. 1.5.
1.23	LACFCD	X.a.1. Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.24	LACDPW	X.a.2. Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.

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1.25	LACFCD	X.a.5. Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.26	LACDPW	X. a. 5 Edit last sentence to: "Equipment shall access the channels by existing access roads or by designated access roads paths. "	The tentative WDRs have been revised for clarity. "Road" indicates an engineered improvement; "path" indicates a designated travel way that not may not be classified as a road.
1.27	LACFCD	X.c.1. Does "notching" mean making entrainment channels from outlets? If so, should we request the terminology be standardized? Standardize "Master Maintenance Plan" throughout document.	"Notching" means making entrainment channels in the outlet structure. "Master Maintenance Plan" has been standardized throughout the WDRs.
1.28	LACDPW	X. c. 2 Edit the first sentence to the following: " Conduct a Non-emergency minor repairs during the winter season, which may include the following: regarding inverts...."	The limiting phrase "...during the winter season..." has been deleted from the tentative WDRs.
1.29	LACFCD	X.c.3 Define "small in scope"	No change has been made to the tentative WDRs. After further discussion with the commenter we determined no further specificity was necessary.
1.30	LACDPW	X. c. 4 Stream gauge maintenance shall occur between September 1 and March 4 15 .	The tentative WDRs have been corrected.
1.31	LACFCD	XII.b.2.i Revise the Annual Workplan submittal date to " August 1 ".	The tentative WDRs have been revised to provide for consistency with other agencies; both the Army Corps of

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			Engineers and the California Department of Fish and Wildlife require the Annual Workplan by August 1.
1.32	LACDPW	XII.b.2.i Revise the last sentence to the following, " however if the Executive Officer does not provide any comments, additional requirements or a request for additional time within 30 days of the Annual Workplan, or 15 days for the notice of additional routine maintenance work, LACFCD is authorized to proceed pursuant to the Annual Workplan or notice of additional routine maintenance work as proposed."	The tentative WDRs have been revised to provide for consistency with other agencies. Maintenance work typically begins September 1 so this change will limit the potential for delays. The Executive Officer has not required more than 30 days for review of the Annual Workplan in the past.
1.33	LACFCD	XII.b.2.i.A. define "certain thresholds of impact."	The thresholds of impact are discussed in the paragraphs below: XII.b.2.i.B., <i>Project Exceeds Original Footprint</i> and XII.b.2.i.C., <i>Project Deviates from the Pre-Approved Surface Water Diversion Plan</i> . The tentative WDRs have been revised for clarity.
1.34	LACDPW	XII.b.2.i.B. Revise the first sentence to: "...ordinary high water mark outside the original currently permitted project boundaries..."	The tentative WDRs have been revised for clarity.
1.35	LACFCD	XII.b.2.iii. A. and H. should not be indented or numbered	A is included because an Annual Report Summary is required. For clarity, the tentative WDRs have been revised to show required Documents and Attachments as bullets under I, <i>Documentation/Attachments</i> .

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1.36	LACDPW	XII.b.2.iii. Delete Items M, N, Q	<p>Estimates of the volumes of vegetation (item M) and trash (item N) are required to examine trends year to year. LACFCD included these items their suggested Annual Report Outline in a letter to the Los Angeles Water Board dated April 5, 2010. LACFCD does not provide a reason to delete the requirements. For these reasons, these two items have been retained.</p> <p>Item Q, coordinates of project areas, has been deleted because it is duplicative of the maps in the Master Maintenance Plan.</p>
1.37	LACFCD	XII.b.2.iii. Edit Item T to say the following "Water quality....of each parameter for reaches where water diversions were implemented"	<p>Item T has been clarified in the tentative WDRs as follows, "All water quality monitoring results by reach in a tabular format containing results of each parameter for each channel reach."</p> <p>Water Quality is monitored per the Water Quality Monitoring Guide for Maintenance and Repair Projects Involving Water Diversion, April 2016 in Attachment D as required by XII.f.</p>
1.38	LACDPW	XII.b.2.iii.V. Please clarify "monitoring activities." Explain if these refer only to biological monitoring or to those Mitigation Monitoring forms.	<p>The item has been clarified in the tentative WDRs to read, "Discussion of all monitoring activities and exotic plant control efforts." LACFCD included this language in the suggested Annual Report</p>

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			Outline in a letter to the Los Angeles Water Board dated April 5, 2010.
1.39	LACFCD	<p>XII, c. 1 Revise this item to the following: " In 2018, LACFCD has completed the feasibility studies on all reaches under the WDR. During these studies the following reaches (SBC 7, 19, 20, 21, 24 and 25) were proposed for Maintenance Methodology Pilot Projects (MMPP). LACFCD will continue to assess and monitor progress on these MMPPs until each of the reaches have been evaluated for five years. "</p> <p><u>Justification:</u> Feasibility Studies have been conducted on all reaches covered by the WDR. Recommendations that were given for reaches with excess capacity were incorporated into the Master Maintenance Plan. Therefore, LACFCD recommends the removal of the condition that requires identification of additional pilot project reaches to be evaluated for alternative maintenance methodology.</p>	<p>The condition does not require identification of additional pilot projects.</p> <p>The Los Angeles Water Board understands that LACFCD believes that there will be few, if any, opportunities for additional pilot projects. However, this condition requires that <i>if an opportunity is identified</i> during the five year term, LACFCD will consult with the Los Angeles Water Board, and will explore the project.</p> <p>In addition, the Feasibility Studies do not preclude identification of additional opportunities for pilot studies. In fact, the Feasibility Study for the Los Angeles River did not identify or preclude the successful pilot project undertaken in the lower Los Angeles River (Reach 25) and Compton Creek (Reach 24).</p>
1.40	LACDPW	<p>XII, c. 2 Based on justification noted on our comment for XII. c. 1, we recommend deletion of this item</p>	See response to Comment No. 1.39.
1.41	LACFCD	<p>XII. c. 4 Revise this item to the following: "For any pilot project conducted, For pilot project SBC Reaches 7, 19, 20, 21, 24, and 25, LACFCD will continue to shall evaluate the projects in terms of: a) ecological impact,....."</p>	See response to Comment No. 1.39.

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1.42	LACDPW	<p>XII. c. 5 Revise this item to the following: "With Los Angeles Water Board Executive Officer approval, and subject to approval by other agencies including ACOE, and CDFW, as necessary, LACFCD shall will continue to implement the new channel maintenance practices as discussed and approved by the Los Angeles Water Board Executive Officer, ACOE, and CDFW, based on the outcomes of the pilot projects during term of this Order, or as feasible, or when pilot project is completed. Changes to the alternative maintenance for the pilot program reaches will not be implemented unless reviewed/approved by the Los Angeles Water Board, ACOE, and CDFW."</p>	<p>See response to Comment No. 1.39.</p>
1.43	LACFCD	<p>XII. d. 1, 3 Delete items XII. d. 1 and 3. Justification: Feasibility Studies and pilot projects have been conducted on all reaches covered by the WDR. Recommendations that were given for reaches with excess capacity were incorporated into the Master Maintenance Plan. Therefore, LACFCD recommends the removal of the condition that requires identification of additional reaches to be evaluated for restoration opportunities for additional vegetation.</p>	<p>The condition does not require identification of additional reaches to be evaluated for restoration opportunities.</p> <p>The condition requires that the LACFCD continue to assess and review conditions and capacities. The Los Angeles Water Board's expectation is that LACFCD will continue to look for restoration opportunities over the term of this Order.</p> <p>The item has been clarified in the tentative WDRs by adding "If LACFCD identifies a revised channel clearing or restoration opportunity based on changes to the contributing drainage area since completion of the applicable feasibility study or other significant change..."</p>

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1.44		<p>XII.d.2. Revise this condition to the following: "For the reaches identified by the Feasibility Studies as not meeting required flood capacity requirements where additional vegetation may be removed (reaches 28, 67, 69, 70, 75, 90, 100, and 110) , LACFCD shall review hydraulic analyses or conduct new hydraulic analyses to identify possible methods to minimize additional potential impacts in those reaches and report results to the Los Angeles Water Board by December 14, 2018 should the analyses show additional vegetation removal is warranted. In the event LACFCD is unable to identify new methods, the vegetation may be removed following the report to the Water Board. The Master Maintenance Plan Maintenance Manual may be updated with reductions to allowed impact."</p>	<p>After further discussion with the commenter, the tentative WDRs have been revised. The condition will read:</p> <p>For the reaches identified by the Feasibility Studies as not meeting required flood capacity requirements where additional vegetation may be removed (reaches 28, 67, 69, 70, 75, 90, 100, and 110), LACFCD shall review hydraulic analyses or conduct new hydraulic analyses to identify possible methods to minimize additional potential impacts in those reaches and report results to the Los Angeles Water Board. The Master Maintenance Manual may be updated in the future with reductions to allowed impact.</p> <p>In addition, a status update on these reviews will be required as part of the Annual Report as indicated in XII.B.2.iii.</p>
1.45	LACDPW	<p>XII.d.3. Standardize "Master Maintenance Plan" throughout document.</p>	<p>"Master Maintenance Plan" has been standardized throughout the WDRs.</p>
1.46	LACFCD	<p>XII. d. 4 Revise this item to the following: "LACFCD shall conduct Risk and Uncertainty analyses or other appropriate</p>	<p>No change has been made to the tentative WDRs because the purpose of these analyses would be to identify areas</p>

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		analyses, working with the ACOE, as warranted, in order to identify those reaches with federally required -maintenance requirements that may be candidates for revised maintenance procedures that would allow more vegetation to remain in the channel, or that would allow alternative channel clearing approaches/methods potentially more protective of beneficial uses to provide adequate flood protection as determined by the analyses. LACFCD may apply..."	where more vegetation could remain.
1.47	LACDPW	XII, f, 1 The Water Quality Guide is an attachment of the Master Maintenance Plan and doesn't need to also be an attachment of the WDR Permit. Revise to "...April 2016 (Water Quality Guide) in Attachment D the Master Maintenance Plan. "	The Water Quality Guide is part of the Master Maintenance Plan, but is handled as a separate document and is referenced in the WDRs as a separate document for clarity. The list of Attachments in the tentative WDRs has been edited to clarify that the Water Quality Guide is also Attachment G of the Master Maintenance Plan.
1.48	LACFCD	XII.I. 2 Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.49	LACDPW	XII.I. 3. The HACCP applies to just the Malibu and Santa Monica watershed reaches, not all reaches. Revise to, "LACFCD shall implement the Plan for Hazard Analysis and Critical Control Points dated April 1, 2010 (HACCP) in all reaches in the Malibu-Dominguez watersheds or any subsequently Executive Officer-approved HACCP to limit the spread of invasive species."	The tentative WDRs have been corrected to specify the Malibu and Santa Monica watersheds.

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1.50	LACFCD	XII.I. 5 Standardize "Master Maintenance Plan" throughout document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.51	LACDPW	XII.I. 6. Focused surveys are conducted every OTHER year, not annually. Please revise to, "...and photo documentation including sensitive/endangered species focused surveys (every other year) on specific reaches."	The language has been edited in the tentative WDRs to clarify that the sensitive/endangered species focused surveys shall be conducted per the Master Maintenance Plan.
1.52	LACFCD	XII.I. 8 Revise Item as follows: "If maintenance activities on monitoring equipment are necessary during the nesting season (March 15 – August 31) , appropriate nesting bird surveys will be conducted prior to starting work."	No change has been made to the revised tentative WDRs because there can be different nesting seasons (e.g. primary nesting season (March 15 – August 31) or southwestern willow flycatcher nesting season (March 15 – September 15)).
1.53	LACDPW	XII. I. 13 Revise as follows: "LACFCD shall not conduct any routine maintenance activities within waters of the State the channels during rainfall events. LACFCD shall maintain....."	No change has been made to the revised tentative WDRs. In this condition, the Los Angeles Water Board means to specify <i>waters</i> as the place where activities should not take place during rainfall events.
1.54	LACFCD	XII.I. 14. Revise the first sentence to the following: "...during all construction activities in sensitive reaches where clearing involves..."	This condition applies to all reaches where maintenance involves partially clearing areas (i.e., some vegetation is to remain in the same reach or in an adjacent reach) and a qualified biologist is necessary to identify the specific vegetation to be cleared. The language in the revised tentative WDRs has been clarified.

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1.55	LACDPW	XII.I. 17. Only Reach 105 was under the NRMP [Santa Clara River Natural Rivers Management Plan], but it's not anymore. This section should be removed.	The revised tentative WDRs have been corrected.
1.56	LACFCD	XII, I, 19 The Water Diversion Manual is an attachment of the Master Maintenance Plan and doesn't need to also be an attachment of the WDR Permit. Revise to "LACFCD shall follow the 2016 Water Diversion Manual in the Master Maintenance Plan or for circumstances which require..."	The Water Diversion Manual is part of the Master Maintenance Plan, but is handled as a separate document and is referenced in the revised tentative WDRs as a separate document for clarity. The list of Attachments in the revised tentative WDRs has been edited to clarify that the Water Diversion Manual is also Attachment H of the Master Maintenance Plan.
1.57	LACDPW	What is the procedure for notifications for emergency repair work? Permit should include language for procedure.	Emergency Projects are permitted under ACOE RPG 63. See: https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.shtml and http://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process/#RGP63 .
1.58	LACFCD	Make all references to "Master Maintenance Plan" consistent throughout the document.	"Master Maintenance Plan" has been standardized throughout the WDRs.
1.59	LACDPW	Define storm season at the beginning as October 15 to April 15 of every year.	See response to Comment No. 1.8.
1.60	LACFCD	Define Bird Nesting Season as March 15 to August 31 of every year.	No change has been made to the revised tentative WDRs because there can be

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			different nesting seasons (e.g. primary nesting season (March 15 – August 31) or southwestern willow flycatcher nesting season (March 15 – September 15)).
<i>Los Angeles Waterkeeper, May 18, 2018</i>			
2.1	LAW	<p>Los Angeles Waterkeeper (LAW) is a nonprofit environmental organization with over 3,000 members dedicated to protecting and restoring the inland and coastal surface and ground waters throughout Los Angeles County, and ensuring an environmentally sustainable water supply. LAW also advocates for the ecologically-sensitive restoration of all of our region's waterways.</p> <p>We have appreciated LA County Flood Control District (LACFCD)'s efforts to engage us in dialogue alongside fellow NGOs in reference to this permit application. It is clear that LACFCD has taken into consideration several of the suggestions made by NGOs previously, and we are glad to be moving forward with this process with the spirit of collaboration. With all of that in mind, however, we have the following concerns about the permit that we ask you to consider.</p>	Comment noted.
2.2	LAW	<p><u>Our Regional Waterways Are Essential Freshwater Ecosystems</u></p> <p>The tentative Order provides a useful chronology of the history of vegetative clearing and other forms of maintenance in the soft-bottomed sections of streams throughout LA County, including the Los Angeles River. The LA River is now the focus of much discussion and planning for restoration projects,</p>	The Los Angeles Water Board agrees that these waterways are important habitat and supports revitalization and restoration efforts. The title of LACFCD's project, and thus these WDRs and CWA § 401 water quality certification, in no way diminishes the importance of these waters as essential freshwater

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		<p>including a large project proposed for the Glendale Narrows area by the City of Los Angeles and US Army Corps of Engineers that will result in the removal of concrete from the river bottom for the first time in nearly a century. The County of Los Angeles itself is playing a leading role in the LA River "revitalization" process and in reconnecting Angelenos with the long-neglected river. Indeed, our waterways throughout the County, including Ballona Creek, are receiving newfound attention as unique ecosystems that flow through and connect our communities. While the tentative Order provides a useful guide to the history of the project, its terminology has a distinctly out-of-date feel as well, including its continual reference to the river as an "engineered, earth-bottom channel" and "flood control channel" and does not fully reflect the importance of the soft-bottomed segments to the ecology of modern Los Angeles.¹ While we recognize that the river does indeed provide flood risk mitigation benefits, the language of the permit processes should also recognize that our waterways are important and sensitive ecosystems.</p> <p>¹ For example, the Project is described, in language that no doubt would reassure its mid-twentieth century developers, as "Maintenance Clearing of Engineered Earth-Bottom Channels for Flood Control." (Tentative Order, p. I) However, the project could also be accurately described as "periodic removal of almost all remaining native vegetation from some of the last remotely natural segments of Los Angeles County rivers."</p>	<p>ecosystems.</p> <p>The choice of terminology is consistent with the ROWD submitted by LACFCD, other regulatory agencies, accurately describes characteristics of these waterbodies and distinguishes them from other types of waterbodies that LACFCD maintains such as fully-lined channels.</p> <p>Findings 63 – 68 offer brief descriptions of the watersheds. The revised tentative WDRs have been revised to add a new finding to this section to highlight the habitat value of these waterways.</p>
2.3	LAW	<p><u>Soft-Bottomed Segments Provide Valuable Habitat and Merit Additional Monitoring</u></p>	<p>The "pre-clearing biological resource survey" is conducted to refine or limit</p>

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		<p>A diverse Mediterranean riparian ecosystem of marshes and wetlands fed primarily by high groundwater once covered much of the watershed of the Los Angeles River, including much of the current City of Los Angeles. (La Cienega Boulevard's name reflects this rich ecological history.) However, this riparian ecosystem was almost completely destroyed by the mid-20th century channelization and concretization of most Los Angeles County rivers. The channelization and concretization were a response to a series of very damaging floods in the early 20th century, coinciding with significant urbanization of the floodplain. The concrete channels greatly reduced the flood risk, but largely destroyed the riparian ecosystem in the floodplain by hydrologically severing the river from its floodplain. The soft-bottomed sections of the rivers, many of which are located in areas of high groundwater that were unsuitable for concrete channel bottoms, are ecologically valuable because they include virtually the only vestiges of this once-expansive ecosystem. The soft bottomed segments are much more than engineered flood control channels. They provide habitat for native vegetation and sensitive species (Tentative Order, p.17), and indeed an entire sensitive ecosystem found almost nowhere else.</p> <p>Considering our stream's unique habitats, we ask for additional steps to be taken in protecting them. In addition to a qualified biologist conducting a "pre-clearing biological resource survey," the same survey should be conducted following a clearing activity to ensure that there were no detrimental impacts on the ecosystem. We recommend biological monitoring that follows a similar</p>	<p>the clearing activity, if necessary.</p> <p>After-clearing monitoring is conducted to document the after conditions. See the Annual Reports provided by LACFCD at https://dpw.lacounty.gov/lacfd/WDR/Reports.aspx.</p> <p>Data on benthic macroinvertebrates would not provide specific information about the impacts of the clearing on the habitat. The benthic communities are spatially and temporally integrative, reflecting a complex set of conditions, including pollutants, sedimentation, nutrients, and alterations to the physical habitat such as imperviousness, altered flow conditions, and vegetation removal.</p> <p>The California Stream Condition Index (CSCI) is the biological index used to score the condition of benthic macroinvertebrate communities in perennial wadeable rivers and streams in California. Benthic communities are generally assessed once per year. The Standard Operating Procedures for the Collection of Field Data for Bioassessments of California</p>

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		<p>monitoring process to that of the water quality monitoring protocol (pre, during and post- monitoring and upstream, within project and downstream). Sampling for benthic macroinvertebrates (BMIs) would provide more nuanced information about the impacts of the clearings on the habitat. We also suggest limiting the use of herbicides to the greatest extent possible. Roundup and similar herbicides contain glyphosate, a chemical that the California Office of Environmental Health Hazard Assessment (OEHHA) lists as carcinogenic. It also has the potential to harm species not targeted originally, including other plants, amphibians and insects. We ask for additional monitoring of water quality downstream of targeted sites that tests for glyphosate. Chemicals like glyphosate only temporarily keep invasive species at bay, while potentially causing water quality and biological impacts downstream that need to be better understood. We also echo the comments of our partners at The Nature Conservancy who point out that replacing invasive species with native species could also reduce the need for maintenance, resulting in both environmental benefits and reduced maintenance costs.</p>	<p>Wadeable Streams: Benthic Macroinvertebrates, Algae, and Physical Habitat, May 2016, (Bioassessments SOP) recommends biotic sampling between May and July in Southern California. The CSCI could not, therefore, be used as a before-clearing compared to after-clearing assessment due to the timing of maintenance activities, which generally occur in the fall or winter.</p> <p>We understand LACFCD or a representative of LACFCD applies pesticides to “targeted” areas in support of maintenance activities. The tentative WDRs have been revised to include that the Order does not authorize application of pesticides and that any such application that may be necessary as part of the maintenance activities authorized by the Order must be separately permitted through the appropriate statewide general pesticide application permit.</p> <p>Use of glyphosate in aquatic systems is regulated by Water Quality Order No. 2013-0002-DWQ (General Permit No. CAG990005),</p>

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			<p>Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Aquatic Pesticide Discharges to Waters of The United States from Algae and Aquatic Weed Control Applications (Aquatic Pesticide Permit). The Aquatic Pesticide Permit includes receiving water limitations for glyphosate and a monitoring and reporting program.</p> <p>In addition, the revised tentative WDRs have been revised to add a condition that should LACFCD, or other County agency in support of LACFCD, plan to use any pesticide in these reaches as part of maintenance activities authorized by the WDRs, LACFCD shall also specify the General NPDES permit under which it has enrolled (i.e. Vector Control or Weed Control) and submit the WDID number and the Pesticide Action Plan or Aquatic Pesticides Application Plan as part of the Annual Workplan. See revised tentative permit section XII, <i>Conditions</i>, b.2.ii, <i>Project Reporting – Annual Workplan and Thresholds for Additional Review</i>.</p> <p>If LACFCD or other County agency</p>

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			<p>in support of LACFCD, enrolls in one of the abovementioned permits during the year due to an emerging issue such as an emerging vector control issue, LACFCD shall submit the WDID number and the Pesticide Action Plan or Aquatic Pesticides Application Plan as soon as available. See revised tentative permit section XII.I, <i>Conditions</i>, 12.</p> <p>Requirements for monitoring were discussed at the WDR Working Group meetings and, in particular, the meeting of June 16, 2016. Discussions included parameters to be monitored, sampling methods, and available data from monitoring conducted under other permits (i.e., MS4 permits) in the same reaches. Those monitoring requirements have been included in the WDRs.</p> <p>These maintenance activities, in many areas, remove all or nearly all vegetation to maintain the channel capacity, so LACFCD would not plant natives in areas where they cleared invasives. However, in reaches where some vegetation can remain, LACFCD selectively removes invasives, allowing native to remain.</p>

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2.4	LAW	<p><u>The Order Should Explain How the Project Meets Section 401 and Anti-Degradation Requirements.</u></p> <p>The Tentative Order indicates that it serves as a Water Quality Certification, but little analysis is included on how the project does - or does not - meet the requirements of Section 401. When the permit is next up for renewal, LAW strongly encourages the Regional Board to prepare a more formal 401 Water Quality Certification document.</p>	<p>The State of California regulates most dredge and fill discharges through 401 Certifications and may also regulate such discharges through WDRs as authorized by the California Water Code (CWC). Pursuant to CWC section 13263, the Los Angeles Water Board is authorized to prescribe WDRs for any proposed or existing discharge unless WDRs are waived pursuant to Water Code section 13269.</p> <p>In the past, the Los Angeles Water Board authorized LACFCD's maintenance activities by issuing only a Clean Water Act Section 401 Water Quality Certification (401 certification).</p> <p>In 2010, the Los Angeles Water Board determined to regulate the subject discharge of dredge and fill materials into waters of the State by issuing individual WDRs pursuant to CWC section 13263 as well as 401 certification. The Los Angeles Water Board considers this approach appropriate to control potential impacts to beneficial uses of waters of the U.S. and waters of the State from these maintenance activities.</p>

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			<p>All requirements of 401 certification are included in the tentative WDRs/401 certification, including the standard CWA section 401 conditions; see Section XII <i>Conditions g. standard</i>. See also Section XIII, <i>Water Quality Certification</i>. (23 CCR § 3860).</p> <p>The Army Corps of Engineers also recognizes that the WDRs issued for these maintenance activities fulfill the requirement for 401 certification by the State and has issued Clean Water Act Section 404 Nationwide Permit 31 “Maintenance of Existing Flood Control Facilities” for these activities on the basis of this understanding since 2010.</p> <p>With some modifications to account for issuance of WDRs by the Los Angeles Water Board at a public hearing, the tentative WDRs/401 certification generally follow the State Water Board’s 401 certification template, which is a much more formal certification document than has been used in the past.</p>
2.5	LAW	LAW is also concerned that the Order needs to analyze compliance with all applicable anti-degradation policies, including whether the project could cause further degradation (on a pollutant by pollutant basis) of already impaired waterways. The Tentative Order forbids any	The Board is not acknowledging that the project has the potential to cause violations of water quality standards. As with any permit or 401 certification issued by the Board, noncompliance

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		<p>discharges that degrade surface water communities beyond the vegetation removal areas, and forbids discharges that adversely affect any designated beneficial uses. (Tentative Order, p.18, p.25.) However, the Order also clearly contemplates that the Project has potential to cause violations of water quality standards. (Tentative Order, p. 22 section v.). Even more concerning to LAW, the LACFCD frequently did not undertake required pre-project monitoring during the current permit term, citing time constraints. (<u>Appendix C</u>, Los Angeles River Watershed- Earth- Bottom Channels Water Quality Monitoring Report, p.1) Without pre-construction monitoring, it will prove difficult if not impossible to determine whether the vegetation clearance is producing significant environmental impacts, including causing or contributing to violations of water quality standards. When a monitoring program is not adequate to detect degradation of water quality, the WDR cannot rely on a simple prohibition on violations of water quality standards to comply with anti-degradation policies. (See Asociación de Gente Unida par el Agua v. Central Valley Regional Water Quality Control Board (2012) 210 Cal. App. 4th 1255, 1280.)</p>	<p>with order requirements (such as violations of water quality standards) always has the potential to cause degradation. This is no different with this project and the Board recognizing this possibility does not authorize degradation. Because, should the conditions of the Order not be met, the Project has potential to cause exceedances or violations of water quality standards, the Order, p. 22 section v., requires that LACFCD notify the Los Angeles Water Board of any event causing the non-compliance with water quality standards.</p> <p>In terms of antidegradation requirements, these WDRs/401 certification require that there be no violation of water quality standards (Section XII h. 2.) -- antidegradation policies are part of water quality standards. The Order relies on the discharge prohibitions and conditions, including Best Management Practices, set forth in Section XII.I. to ensure there is no degradation. In addition, an ongoing objective of these WDRs is for LACFCD to continue to minimize impacts to beneficial uses. See Section VI, <i>Avoidance and Minimization</i>; Section XII <i>Conditions, c. Pilot Projects and d. Continued Avoidance and</i></p>

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			<p><i>Minimization.</i></p> <p>A finding on antidegradation policies has been made in the revised tentative WDRs, Section VII. However, there is no requirement to do pollutant by pollutant analyses for dredge and fill permits.</p> <p>Moreover, the yearly maintenance activities, to a greater or lesser degree depending on the particular year, have been conducted since the channelization of these waterways in the 190s, and 40s, prior to the Clean Water Act and state and federal anti-degradation policies.</p> <p>The Los Angeles Water Board disagrees that LACFCD did not undertake required pre-project monitoring during the current permit term. We assume the report cited by the commenter is <u>Appendix C</u>, Los Angeles River Watershed Earth-Bottom Channels Water Quality Monitoring Report included as part of the Los Angeles River Watershed Feasibility Study Final Report. The uncompleted pre-project monitoring occurred in 2011, not the current WDR term (February 2016 to July 2018). LACFCD identified improved procedures to ensure</p>

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			<p>monitoring would be conducted for all reaches per requirements in 2011. Therefore, LACFCD did conduct pre-project monitoring during the current permit term.</p>
2.6	LAW	<p><u>The Project May Require CEQA Review.</u></p> <p>LAW agrees that a CEQA categorical exemption for existing facilities applies to the project.² (Tentative Order, p. 16.) However, LAW is concerned that the single conclusory sentence (Tentative Order, p.16) finding no applicable exceptions to exemptions is premature at best. The Regional Board needs to justify why Guidelines sections 15300.2(b) related to cumulative impacts and 15300.2(c) related to significant effects are not applicable. This iteration of the WDR allows clearing of 48.2 acres of vegetation, which the Tentative Order itself describes as "Degradation of Ecological Condition." (Tentative Order, p. 15.) Because the native vegetation included within this 48.2 acres supports a very rare Mediterranean riparian ecosystem and habitat for several rare and endangered species (<u>Draft Master Maintenance Plan</u>, p. 153), the impacts from the clearance of the 48.2 acres considered alone, or the clearance of hundreds of acres over the various permit renewals ("successive projects of the same type in the same place over time," Guidelines Section 15300.2(b)) could very well be significant. For example, loss of vegetation could cause changes to water temperature, dissolved oxygen, turbidity, and species diversity, could negatively impact beneficial uses, and could result directly or indirectly in water quality degradation. At a minimum, LAW requests that the</p>	<p>The exception in CEQA Guidelines § 15300.2(b) for Cumulative Impact does not apply here. This exception only applies when "the cumulative impact of <i>successive projects</i> of the same type in the same place, over time is significant." While this project has been authorized continuously, it is a single project to maintain the subject waterways in a certain condition and is not "successive projects." These areas have been maintained, to a greater or lesser degree depending on the particular year, since the channels were lined, mostly in the 1930s and 40s.</p> <p>The exception in CEQA Guideline § 15300.2(c) for Significant Effect does not apply here either. This exception only applies when there is "an activity where there is a reasonable possibility that the activity will have a significant effect on the environment <i>due to unusual circumstances</i>." No "unusual circumstances" have been identified that would cause a significant effect on the environment. There is no increase in</p>

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		<p>Regional Board require several important background studies, such as watershed-wide studies of how to best minimize impacts to beneficial uses, which will inform the decision on applicability of exceptions to exemptions during the 2023 permit renewal.</p> <p>² In addition, a partial statutory exemption, from Chapter 3 of CEQA, for approval of WDR is also applicable (although this statutory exemption does not apply to approval of Water Quality Certifications).</p>	<p>areas impacted over the various permit renewals; it is always the same acreage that is impacted annually. In fact, the acres impacted have decreased somewhat after the implementation of recommendations further minimizing impacts, which were identified through the Feasibility Studies.</p> <p>Moreover, the WDRs/401 certification do not authorize any act that results in the taking of a threatened, endangered, or candidate species under either the California Endangered Species Act or the federal Endangered Species Act. If a “take” will result from any act authorized under the WDRs/401 certification, LACFCD must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. (See Part XII.i.1)</p> <p>The Los Angeles Water Board has required watershed-wide studies of how best to minimize impacts to beneficial uses. These were the required “Feasibility Studies” conducted between 2010 and 2017. These studies were conducted with the primary purpose of identifying areas where additional vegetation could be left in place to continue to provide habitat and</p>

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			<p>minimize impacts to beneficial uses. See Attachment B, <i>Summary of Revisions to Maintenance Manual</i>. No specific study has been suggested or identified that is warranted at this time.</p>
2.7	LAW	<p><u>Conclusion</u> LAW has some significant concerns with the permit as currently written. However, as mentioned previously, LAW, along with Heal the Bay, Friends of the Los Angeles River, and The Nature Conservancy, appreciate the ongoing dialogue with the LACFCD. LAW hopes to work cooperatively in finding the best mechanisms to move forward with the greatest respect to the sensitive ecosystems of our rivers and streams possible.</p> <p>With all of our comments in mind, LAW urges the Regional Board to take the following steps with regards to the permit.</p> <ul style="list-style-type: none"> • Alter the project description to expressly recognize LA County's waterways as freshwater ecosystems rather than merely flood conveyance structures. • Enforce the monitoring conditions of the permit, working with LACFCD to ensure that no vegetative clearance occurs before pre-monitoring requirements have been satisfied, and taking action when post-monitoring results indicate exceedances. • Require that LACFCD conducts additional biological monitoring to ensure that the stream habitats have not been degraded biologically following the completion of activities at any given site. This entails conducting a post-clearing biological resource survey as well as sampling for BMIs. 	<p>The Los Angeles Water Board looks forward to working with LAW, the LACFCD, and other stakeholders on many projects and plans to further protect and restore our rivers and streams including, but not limited to, the Lower LA River Revitalization Plan and the Los Angeles River Master Plan. For LACFCD's requirement for continued outreach to stakeholders, see XII, <i>Conditions, e. Continued Outreach to Stakeholders</i>.</p> <ul style="list-style-type: none"> • <i>Alter the project description ...</i> See response to Comment No. 2.2. • <i>Enforce the monitoring conditions of the permit ...</i> See response to Comment No. 2.5. • <i>Require that LACFCD conducts additional biological monitoring...</i> See response to Comment No. 2.3. • <i>Require the monitoring of glyphosate...</i> See response to Comment No. 2.3.

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		<ul style="list-style-type: none"> • Require the monitoring of glyphosate as part of the regular water quality monitoring protocol. • Require a comprehensive, watershed-wide review of how LACFCD can best minimize its impact on stream channels and ensure that all maintenance practices are the most protective of beneficial uses as possible - and require the protective practices to be applied as soon as possible. • Apply to this permit the lessons learned from the most recent pilot projects in Compton Creek and lower Los Angeles River about the potential for using alternative clearing methods that have fewer environmental impacts. • Ensure that all reaches, including recently-added ones, have been included in feasibility studies. 	<ul style="list-style-type: none"> • <i>Require a comprehensive, watershed-wide review of how LACFCD can best minimize its impact...</i> See responses to Comment Nos. 2.5 and 2.6. • <i>Apply to this permit the lessons learned from the most recent pilot projects in Compton Creek and lower Los Angeles River...</i> The improved maintenance methods from the pilot projects in Compton Creek and lower Los Angeles River have been incorporated into the Master Maintenance Plan. • <i>Ensure that all reaches, including recently-added ones, have been included in feasibility studies.</i> All reaches in these WDRs have been included in the Feasibility Studies; no reaches have been added to the WDRs.
<i>Carole Bartolotto, May 19, 2018 (LATE COMMENT)</i>			
3.1	Bartolotto	In 28 It says that "It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use." However LACFC uses the herbicides Roundup, Roundup Custom, Dimension Ultra 40WP, Gallery, Oust, Proclipse, Telar XP, Liberate, and Target Pro-Spreader. Does LACFD or the WQCB monitor the	See response to Comment No. 2.3.

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		<p>impact of these chemicals on our drinking water considering that some of this water enters ground water through spreading grounds or directly in other areas? It does not seem prudent to use herbicides, many with toxic effect on humans and animals in our waterways. There are a lot of unknowns about their effects on health. In particular, what are the long-term impacts on human health with consumption of smaller amounts of these herbicides for many years?</p>	
3.2		<p>Regarding section Permitted Activities: Vegetation and Sediment Clearing In 5 it says: "In areas where there are sensitive species and native vegetation, clearing shall take place by hand as specified in the 2018 Maintenance Plan in order to selectively avoid protected resources." Although in reach 99, Kagel Canyon, there is native vegetation in addition to non-native, LACFD sprays all vegetation in the creek (native and non-native) and removes all dried and dead vegetation once a year in late September.</p>	<p>See response to Comment No. 2.3.</p>
3.3		<p>Regarding section I. Best Management Practices In 12 it says, "Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. Pesticide utilization shall be in accordance with State Water Board pesticide permits including: Water Quality Order Nos. 2011-0003-DWQ, for Aquatic Animal Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control." However, LACFD does not follow the instructions on the label for residential use, which says "Keep people and pets off treated areas until spray solution has dried." Instead LACFC</p>	<p>See response to Comment No. 2.3. In addition, the Aquatic Pesticide Permit requires that that pesticide applications be consistent with label instructions approved by USEPA.</p>

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		<p>just sprays and leaves without monitoring if any human or animal enters the area. See link for instructions: "http://www.monsantoito.com/docs/RoundupCustomLabel.pdf" </p> <p>In addition, this is out of compliance with the federal law FIFRA (Federal Insecticide, fungicide and rodenticide act), which mandates that they have to follow instructions on the label, which as I mentioned above, they are not.</p>	
3.4		<p>Regarding the Soft Bottom Channel Master Maintenance Plan https://www.waterboards.ca.gov/losangeles/water_issues/programs/401_water_quality_certification/Flood_Control/2018/AttachmentA-Draft2018MaintenancePlanx.pdf It says: REACH NO. 99: KAGEL CANYON – TUJUNGA WASH Scope of Work: •Hand clear work all vegetation in this reach. However, as mentioned above, they are using many different herbicides. This particular reach is very close to homes, in some cases just inches away, which is another reason that spraying herbicides is not warranted. A few general comments about permits and other ordinances: LACFC must adhere to the Fish and Wildlife Permit, which says that can only use herbicides to spot spray non-native invasive species such as castor bean or arrundo. It also says that great care must be taken to avoid non-native species. NONE of this is happening in reach 99, Kagel Canyon.</p>	See response to Comment No. 2.3.
3.5		Also, other ordinances should be considered and included where applicable. According to (L.A.M.C. 57.322), "year-round compliance shall be maintained as described below on	This Order addresses requirements of the Clean Water Act and California Water Code under the authority of the California

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		<p>all native brush, weeds, grass, trees and hazardous vegetation within 200 feet of any structures/buildings, whether those structures are on the owner's property or adjoining properties, and within 10 feet of any combustible fence or roadway/driveway used for vehicular travel." This requirement helps protect homes that are within very high fire hazard areas. But LACFD, who is not exempt from this ordinance, just sprays the creek, which is within 200 feet of many homes, and does not remove them till the end of September. This is a fire hazard.</p> <p>See info here on the L.A.M.C. https://www.fire.lacounty.gov/forestry-division/fire-hazard-reduction-programs/</p>	<p>Water Boards. However, LACFCD is still subject to other applicable laws and regulations.</p>