

Department of Water and Power



the City of Los Angeles

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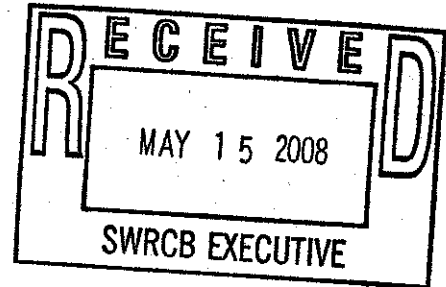
May 15, 2008

Ms. Tam Doduc  
Chair, State Water Resources Control Board  
1001 I Street  
Sacramento, California 95814

Attention: Ms. Jeanine Townsend

Dear Ms. Doduc:

**Subject: Comments on the Los Angeles River and Ballona Creek Metals TMDLs**



Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to submit comments on the Amendments to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Total Maximum Daily Load for Metals in Los Angeles River and Ballona Creek. LADWP has reviewed the draft California Environmental Quality Act (CEQA) checklist and has the following comments:

**1. Request for Extension of Implementation Timeline for Los Angeles River**  
LADWP joins the Los Angeles River Watershed Management Committee in their request that the Basin Plan Amendment for the Los Angeles River Metals TMDL be modified in order to allow for the completion of studies prior to developing an implementation plan. Modifying the timeline will alleviate CEQA-related impacts due to the ability to use additional knowledge gained by performing the scientific studies in advance of implementation.

**Recommendation:** Extend the Los Angeles River implementation schedule as follows:

- January 2011 – Completion of Special Studies
- July 2011 – Review and approval by Regional Board of Special Studies
- January 2012 – Submit Implementation Plan(s) to the Los Angeles Regional Board
- January 2012 – TMDL Reconsideration

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January 2013 – 1st Compliance Milestone of 50% of drainage area meeting dry weather Wasteload Allocations (WLAs) and 25% of drainage area meeting wet weather WLAs.

## 2. Memoranda of Understanding (MOU) for both Los Angeles River and Ballona Creek Metals TMDLs

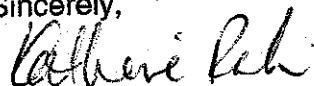
In the Alternatives Analysis, the Los Angeles Regional Water Quality Control Board stated that "Neither voluntary measures, nor a memorandum of understanding, as opposed to a NPDES permit or other Regional Board order, would alter the manner in which compliance could be achieved. Those implementing the TMDL would still be required to implement the same types of structural and non-structural BMPs as discussed under Alternative 1." The analysis also states that the MOU alternative is not legal and therefore not feasible.

LADWP believes that an MOU is a legally binding document fully enforceable under the laws of the State. This is substantiated by *Glendale City Employees' Association, Inc., vs. City of Glendale* (1975) 15 cal. 3d 328. Therefore, both the State Water Resources Control Board (SWRCB) and the RWQCB should recognize in the Alternatives Analysis that MOU implementation is a viable and perhaps more effective alternative for TMDL implementation because it allows stakeholders to work together to find solutions to metals problems prior to implementing costly projects.

**Recommendation:** LADWP requests that the analysis of the MOU alternative be modified so that an MOU is a viable method of implementation. Through an MOU, stakeholders could conduct studies to determine which BMP strategies should be used to provide assurances that standards may be met.

Again, LADWP appreciates the opportunity to comment and looks forward to working with the Regional Board on the development of this TMDL. If you have any questions, please feel free to contact Mr. Clayton Yoshida of the Wastewater Quality and Compliance Group at (213) 367-4651.

Sincerely,



Ms. Katherine Rubin  
Manager, Wastewater Quality and Compliance Group

KR:cy