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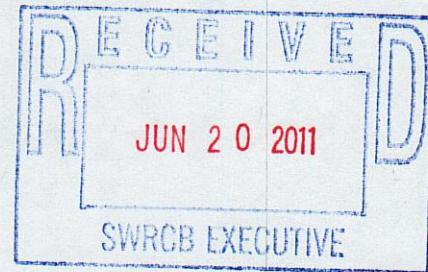
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June 20, 2011

Charles R. Hoppin, Chairman
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Dear Chair Hoppin:

TECHNICAL COMMENTS - LOS ANGELES WATER BOARD INDICATOR BACTERIA

The City of Los Angeles, Bureau of Sanitation (Bureau) appreciates the opportunity to provide the following technical comments and recommendations regarding the State Water Resources Control Board (State Board) consideration of the Basin Plan Amendment to incorporate a Total Maximum Daily Load (TMDL) for Bacteria in the Los Angeles River. The referenced TMDL was adopted by the Water Quality Control Board Los Angeles Region (Regional Board) on July 9, 2010. The Basin Plan Amendment (BPA) before you comes at the end of a lengthy and detailed stakeholder process called CREST (Cleaner Rivers through Effective Stakeholder-led TMDLs) during which the City of Los Angeles worked closely with Regional Board and USEPA staff as well as many other municipal and environmental stakeholders to conduct groundbreaking scientific studies and collaborate on content for the dry weather components of this TMDL. We thank the Regional Board staff for the time and energy contributed to the process and the many CREST contributions that were incorporated into the BPA (described below).

Background on Stakeholder TMDL Development Process

Based on a Memorandum of Understanding between the Regional Board, USEPA, and the City of Los Angeles, the CREST stakeholder group began focused efforts to evaluate and address bacteria issues within the Los Angeles River Watershed in 2005. The primary motivation behind those early efforts was to conduct scientific studies to support TMDL development and implementation¹.

¹ Starting in 2005, CREST evaluated dry weather storm drain system inputs to the Watershed through two groundbreaking bacteria source tracking studies. The studies were designed with input from a broad range of stakeholders and the results were vetted through an independent Technical Advisory Committee, comprised of world-leading experts on bacteria contamination. The second effort (conducted during summer 2007), known as the Bacteria Source Investigation (BSI) Study, is still regarded as one of the most advanced scientific studies of bacteria in urban runoff that has been performed in California, the U.S., or elsewhere.



In March 2008, relying heavily on the scientific data generated by CREST, a stakeholder-led process was begun to develop a bacteria TMDL for the Los Angeles River and tributaries. Due to the complicated nature of the TMDL – and a desire to develop a TMDL that was much more comprehensive than previous TMDLs with regards to integration of scientific information and detail of potential implementation actions – CREST took on the responsibility of supporting Regional Board staff by leading the development of the LA River Bacteria TMDL. The agreed-upon approach to TMDL development was based on CREST generating a “Technical Report”² (e.g., Stakeholder TMDL) using feedback on concepts discussed during a long series of stakeholder meetings³. Subsequently, the Regional Board developed the Staff Report and BPA, relying heavily on the Technical Report for scientific analyses and implementation approaches.

Incorporation of the Stakeholder TMDL into the Staff Report and Basin Plan Amendment

Development of the stakeholder TMDL led to engaging and productive discussions on key TMDL issues identified by participants. CREST stakeholders now have a greatly expanded understanding of each other’s perspectives and a better comprehension of the policies that affect various components of a TMDL. Outcomes of the CREST process that were successfully incorporated into the TMDL and Staff Report include the following:

- **Source Assessment:** based on the CREST scientific studies and years of long-term data collected throughout the Watershed by various agencies, the Staff Report clearly identifies the need for further study of non-point, in-channel bacteria sources (e.g., growth) that may cause or contribute to exceedances of Water Quality Objectives.
- **Load Reduction Strategies:** the Staff Report embraces the Load Reduction Strategy as a robust approach to plan, execute, and assess the numbers and locations of dry weather TMDL implementation actions for an LA River segment or tributary
- **Conditions that provide clear mechanisms for “good actor” MS4s to demonstrate compliance with final Waste Load Allocations (WLAs) are detailed:** the Staff Report outlines a process by which entities that have taken the necessary steps to reduce their loadings to the LA River (“good actors”) can demonstrate compliance with the TMDL using an approach discussed extensively during the stakeholder process.
- **Special Studies and Reopeners:** optional special studies and reopeners were incorporated into the TMDL to provide stakeholders confidence the Regional Board is willing to consider outstanding issues during the early stages of TMDL implementation.

² CREST developed a TMDL Technical Report, containing extensive analyses sections for a dry weather TMDL (targets, source assessment, linkage analysis, allocations, implementation plan, and monitoring). When necessary, the sections evaluated multiple approaches to key aspects of the TMDL in order to allow for the vetting of issues with the range of stakeholders.

³ To facilitate discussions on the Technical and Staff Reports, CREST Steering Committee and Technical Committee meetings were held almost monthly. Over 15 CREST Committee meetings were held to discuss the TMDL sections (in addition to the many previous meetings held to discuss scientific studies), including several CREST workshops that drew up to 75 attendees each.

- **Cost information:** the Staff Report cites the dry weather cost estimates of the Technical Report, which were based on an intensive analysis of storm drain loading data coupled with costs and timelines of previous BMP implementation efforts (e.g., Santa Monica Bay).
- **Implementation Schedule:** the prioritized schedule includes early implementation actions at the reaches where recreational users are most likely to be affected by bacteria discharges.

The Regional Board's incorporation of the 25-year dry weather schedule, with early milestones, demonstrates understanding of the challenges the City faces in implementing TMDLs in such a large, complex watershed considering the City has responsibilities in nearly every reach and tributary. Although the BPA shortened that schedule presented in the stakeholder TMDL by six years, the prioritization and staggered implementation concepts were incorporated. These concepts and the corresponding lengths of time are imperative given the necessity to focus early efforts on protecting recreational users and using scarce public resources efficiently. As such, the Bureau would like to *express our support for the schedule in the TMDL.*

Requested Change to the draft Staff Report and Basin Plan Amendment

While there are many aspects of the TMDL that are "next generation" with regards to bacteria TMDLs in the Los Angeles region, the BPA and Staff Report missed a notable opportunity to address a key issue related to final compliance. This issue, called "Unexpected Discharges", was vetted through the stakeholder process, detailed in the stakeholder TMDL, and incorporated into evaluating compliance with interim allocations. A major concern of the Bureau with respect to dry weather implementation is the inherent variability of bacteria sources. The Bureau very much wants to avoid the situation that an Unexpected Discharge is observed during WLA compliance monitoring, and the City is found to be in violation even though we acted in good faith and implemented a large suite of bacteria control BMPs that were well-designed and executed. These types of discharges were acknowledged in the TMDL when evaluating compliance with interim WLAs but *not* final WLAs. *The Bureau simply requests that the language on the bottom of page 5 of the BPA beginning with "Unexpectedly high-loading outfalls may be excluded from interim compliance calculations under the following circumstances..." be revised to state "Unexpectedly high-loading outfalls may be excluded from interim and final compliance calculations under the following circumstances..."*. Addressing this remaining issue is important to having an implementable and effective TMDL.

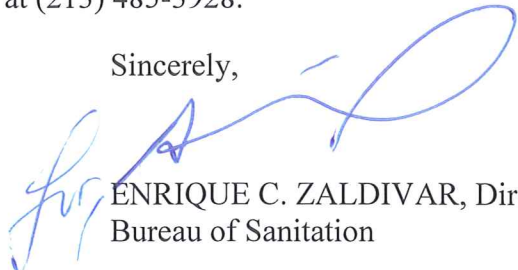
Final Remarks

The CREST process was a highly rewarding experience for City staff, and we very much hope that future TMDLs in the Los Angeles region can use a similar approach. The result was a TMDL based on robust scientific analysis and inclusive of real-world implementation considerations, which will hopefully lead to effective efforts to restore water quality in the Los Angeles River watershed.

Charles R. Hoppin, Chairman
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Thank you for your consideration of these comments. If you have any questions please contact Dr. Shahram Kharaghani, Watershed Protection Division Manager at (213) 485-0587 or Donna Toy-Chen, TMDL Section Manager at (213) 485-3928.

Sincerely,



ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

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WPDCR8848

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