COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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GAIL FARBER, Director

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SWRCB Clerk

June 20, 2011

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Dear Ms. Townsend:

COMMENT LETTER – LOS ANGELES RIVER INDICATOR
BACTERIA TOTAL MAXIMUM DAILY LOAD

Thank you for the opportunity to comment on the proposed Amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to incorporate the Los Angeles River Indicator Bacteria Total Maximum Daily Load. On behalf of the Los Angeles County Flood Control District, enclosed are our comments.

We look forward to your consideration of these comments. If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

GA:cp
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Enc.

COMMENTS OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (LACFCD) ON THE PROPOSED BACTERIA TOTAL MAXIMUM DAILY LOAD FOR LOS ANGELES RIVER AND ITS TRIBUTARIES

1. <u>**REC-1 AND REC-2 Use Designations Should Not Apply To Flood Control Channels With Restricted Access**</u>

More than 60 percent of the Los Angeles River Watershed is highly urbanized, and most parts of the Los Angeles River and its tributaries are heavily engineered for flood protection. As the agency statutorily mandated to provide flood protection for the region, the LACFCD owns, operates, and maintains a majority of these engineered channels. Most channel segments are fenced and public access is restricted to protect public safety; the restricted access also bars any legal public contact with the water.

The Basin Plan recognizes the restricted access to these engineered channels by denoting them as "access prohibited by Los Angeles County DPW". Further, most of these channels are dry or effluent dominated in the absence of rain, which is during most of the year.

The REC-1 and REC-2 uses in these engineered channels have never been attained and are unlikely to be attained in the future. Requiring attainment of water quality standards for REC-1 and REC-2 uses in these channels should not be required where access is prohibited as it serves no purpose, yet the cost is significant. Because access is prohibited in those reaches; no REC-1 and REC-2 activity could lawfully take place.

The Regional Board is currently reviewing the propriety of REC-1 and REC-2 uses in engineered flood control channels. The TMDL should not assign waste load allocations to these channels until the Regional Board's review is complete.

In its response to comments, the Regional Board stated that the removal of beneficial uses was beyond the scope of the TMDL. The Regional Board misconstrued this comment. The LACFCD does believe that the designations should be removed. The comment with respect to the TMDL, however, was that no waste load allocation (WLA) should be assigned to these channels until the Regional Board's review is completed. It makes no sense to be spending money in an attempt to meet REC-1 and REC-2 standards when those designations are currently being reviewed. The State Board should remand the TMDL to the Regional Board with instructions to the Regional Board to complete its review of the appropriateness of the designations before adopting this TMDL.

2. Naming the Los Angeles County Flood Control District as a Responsible Party is Inappropriate

The TMDL should not name the LACFCD as one of the responsible parties for meeting the TMDL's WLAs. None of the land areas draining to the LACFCD storm drains that empties into the Los Angeles River and its tributaries are under the jurisdiction of the LACFCD. The drains themselves function solely as a conveyance for urban and stormwater runoff from upstream entities and do not generate any of the pollutants of concern at issue in the TMDL Because the LACFCD does not control the land uses within the municipalities, it has no practical means of preventing the pollutants at issue flowing from those land uses from entering its facilities and the Los Angeles River.

The TMDL should be directed at the jurisdictions and private entities that have control over the areas that are generating the bacteria. It makes no sense to allocate a WLA to the LACFCD when the LACFCD does not have control over the area from which the bacteria is coming. If the Regional Board wants to adopt an implementation plan that has a chance for success, it should name as responsible parties those entities that can address the generation of the bacteria at issue.

The Regional Board's response to comments below did not address this fundamental point. Although the Regional Board stated that the LACFCD has the authority to install pollutant controls at the points of entry, the Regional Board made no analysis of what would be required, the time it would take to install or the cost, or its effect on flood control. The Regional Board's response is not supported by any analysis or facts to support its conclusion that assigning a WLA to the LACFCD will further the goals of the TMDL. Accordingly, naming the LACFCD as a responsible party in the long run will hinder rather than promote accomplishing the goals of the TMDL because including the LACFCD as a responsible party diverts responsibility from the other entities that have the control over the sources of the bacteria entering the river.

3. Incorporation of the Comments of Los Angeles County

The LACFCD concurs with the comments submitted by the County of Los Angeles and hereby incorporates them by reference.