Heal the Bay®

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January 19, 2016

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 (R4-2016-0032).

Dear Mrs. Zara:

On behalf of Heal the Bay, I submit the following comments on the tentative WDR for the proposed maintenance clearing of engineered earth-bottom flood control channels project, and various watersheds within Los Angeles County. Overall, the 2016 WDR is a much improved permit compared to previous adopted ones. The WDR is far more nuanced in its approach to maintenance, assessments, and monitoring compared to previous versions. The document is reflective of a year's worth of work completed over a series of meetings with watershed stakeholders. Heal the Bay is extremely appreciative of the Board Staff and Los Angeles County Flood Control District (LACFCD) for their commitment to this process suggested by the Board commissioners last year.

However, we still we have a few comments associated with this iteration of the WDR.

General Comment

Defining the Regional Water Quality Control Board (RWQCB) Habitat Goals and Objectives for 401 projects

In reviewing this WDR, Heal the Bay appreciated the background summary on the history of this project and the associated permitting process. However, one element missing from point #27 (pg. 4-5), which should be considered as one of the components, was the RWQCB's need to develop goals and objectives for those biologically based beneficial uses affected by 401 projects. Recycling a point from a previous 401comment letter that is still applicable today—every reach scheduled for maintenance has some type of existing designated beneficial uses related to Warm, Wild, Wet, Rare, or Cold. To this end, has the RWQCB ever completed an assessment of the 401-certification program? As has been stated in public testimony to the Regional Board on the County's previous 401 applications, there is not an identified plan or targeted goals for the 401 program. Whereas, the State Water Resources Control Board (SWRCB) and RWQCB have developed and established goals and objectives for sediment, toxicity, and water quality to be applied to this region's receiving waters; this guidance is absent here. While the "no net loss" approach is a starting point, it fails to adequately evaluate functionality or spatiality issues associated with riparian corridors.

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While the County's application is unique in the 401 program—due to its frequency, scale, and in-perpetuity time-period of habitat disturbance—it offers an excellent opportunity for trends analysis. Using the County's 401 application process, in 2003 the LACFCD 401-certification application noted "…five of those [100 earthen bottom] reaches have been turned into concrete-lined channels, and will no longer require maintenance." The 2009 application stated that 10 additional reaches would be "removed from the certification" because they are no longer an earthen bottom channel or "were impacted by new developments." In the current 2016 application, there are 12 reaches which are being removed—no rationale provided, and eight new reaches are being added due to land use changes. Over the past 15 years of the County 401 process, how many earthen bottom reaches, all of which had designated beneficial uses, have been permanently lost to development or concrete channelization?

Land-uses modifications will continue to press receiving waters and watersheds into the singular functional use of flood control. It is imperative that State agencies develop strategies to protect against this push. Unfortunately, without any trends analysis or stated objectives for the region of the 401 program, how can the public be sure that a tipping-point or threshold is not being crossed for watershed management goals?

Stating watershed goals for biological based beneficial uses upfront helps determine the appropriate monitoring data needed. Examples of such information might be the frequency of disturbance, the number of reaches needing "maintenance", restorative best management practices to reduce sediment and contaminant loading after "maintenance", increasing open space, increasing habitat, IBI scores, or reducing the hydromodification impacts (downstream scour, sedimentation, and erosion) of increasing peak flow velocities through channelization and maintenance.

Monitoring and Evaluation are Critical Functions

This WDR allows the LACFCD to implement pilot alternative management approaches to certain reaches which should be applauded and encouraged. However, Heal the Bay wants to ensure that appropriate monitoring and evaluative criteria are established for these reaches, so that we can adequately compare those reaches over time between themselves, as well as the "business as usual" approach. As such, it is critical that LACFCD continue to monitor existing reaches according to past requirements and provide that data regularly to the working group for analysis. This would include water quality information, as well as the data requests associated with point #64 of the Provisions Section (pgs. 30-31).

Because certain monitoring issues from past LACFCD WDRs still have not been fully addressed in this WDR, Heal the Bay is obligated to reiterate them here.

- One-time grab samples for each reach is not statistically significant to make any determination about the impacts from the maintenance activity at specific reaches. Heal the Bay recommends that sampling take place every year the LACFCD conducts maintenance activities within any of the reaches.

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- Wet weather sample events need to be included in the monitoring program. Most of the water quality impacts from the LACFCD maintenance activity to receiving waterbodies are likely to occur during the first rain event.
- The water quality assessment treats all reaches the same, in terms of waterbody length, width, and overall area impacted. In reality, the geographic area impacted differs, and therefore the amount of 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 station (12 total samples collected). However, one monitoring station may not be sufficient for larger reaches, such as the Compton Creek reach, which is approximately 2.1 miles long. One sampling station for this reach would be inadequate.

The proposed monitoring program in the WDR requires monitoring for dissolved oxygen, pH, turbidity, total suspended solids, and temperature. Again, we recommend that additional 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, both 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 sediment material does not take place immediately after the clearing and dredging, a discharge of sediment (contaminated or not) does take place following the first large rain event that can impact downstream receiving water quality. 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 LACFCD maintenance action constitutes a possible source. Unfortunately, the WDR does not 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 include: hardness, metals, total organic carbon, and toxicity.

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Specific Comments

- ***Point #52 (pg. 11)***: If the Board and public are to have a greater appreciation of the multiple benefits associated with the modified maintenance approach undertaken by the County, then the components for evaluation and supporting criteria should be developed and consistently measured. For example, how many gallons of water were saved? How many pounds of GHG were not produced due to vehicle reduction? What was the turbidity measurements for the new approach compared to the old method? What is the sediment level relative to previous years? Is there a difference in time for site recovery for habitat or foraging? What is the cost-savings in maintenance for the County from the 2015 approach to the 2014? These are concrete metrics that would help the public evaluate the alternative maintenance.

- ***Additional Findings Point #60 (pgs. 12-13), Permitted Activities #4 and #5 (pgs.15-16)***: Can either Board Staff or LACFCD provide a brief explanation for why 12 reaches no longer need to be maintained by this WDR? Or why eight new reaches were incorporated into the 2016 WDR? For the former, were the 12 reaches moved to another entity for maintenance or another permit due to channel classification? For the latter, the paragraph refers to land-use changes, but it is unclear if these reaches where recently all-natural and only recently engineered. Is it simply regulatory housekeeping—a consolidation of other individual 401permits into this one? Finally, are there habitat mitigation requirements for these new eight reaches?

- ***Pilot Projects #29 (pg. 23)***: Please reword the first sentence, beginning with "LACFCD shall identify pilot projects…" with this sentence: " *LACFCD shall identify pilot projects to test alternative vegetation management methods that have a* ***more positive*** *impact on beneficial uses, especially wildlife and habitat uses."*

- ***Pilot Projects #32 (pg.23)***: While the initial list of components for LACFCD to evaluate the pilot projects is fairly extensive, it should also include generating estimates for benefits accrued to LACFCD and the public. This will allow us to see the "full cost-benefit ledger". In addition, LACFCD, Board Staff, and Watershed stakeholders should determine the criteria or metrics to be used for each evaluative component.

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
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Heal the Bay