

**Response to Comments on Tentative Time Schedule Order Requiring the County of Los Angeles, the Los Angeles County Flood Control District, and the City of Los Angeles to Comply with Requirements Pertaining to Discharges of Bacteria During Dry Weather to the Back Basins of Marina Del Rey Harbor and Marina Beach Prescribed in Order No. R4-2012-0175 (NPDES Permit No. CAS004001)**

Commenters	Date of Letter
County of Los Angeles (County) and Los Angeles County Flood Control District (LACFCD)	June 23, 2014
City of Los Angeles (City)	June 23, 2014
Heal the Bay	June 23, 2014
Douglas Fay	June 23, 2014

Commenter	Comment	Response	Change Made
County and LACFCD	The County and the LACFCD support the approval of the time schedule order (TSO) and are committed to implementing the actions in the TSO.	Comment noted.	No
City of Los Angeles	The City is committed to meeting the compliance requirements of the Bacteria TMDL for the Marina del Rey Back Basins and requests approval of the proposed TSO.	Comment noted.	No
City of Los Angeles	Given the small number of data points and the variability of the Exceedance Day dataset, the City is requesting an alternative approach be employed to calculate the interim limitations in the TSO. We would appreciate the	In the City's addendum to their request for a TSO, dated April 18, 2013, the City proposed an alternative methodology for calculating the interim limitations in the TSO. Regional Water Board staff considered the alternative methodology and the resultant interim limitations, but found the methodology and interim	Yes

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	<p>opportunity to discuss these alternatives with Regional Board staff, and would like to continue the interactions with Regional Board staff to ensure the successful implementation of the actions in the proposed TSO.</p>	<p>limitations proposed by the City to be inappropriate for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The proposed alternative methodology is inconsistent with calculation methodology adopted by the Board in the revised Marina del Rey Harbor (MdrRH) Bacteria TMDL.</li> <li>2. The analysis relied upon the wrong rain gage to determine the number of wet and dry days. Specifically, the analysis relied upon the USC rain gage; however, the MdrRH Coordinated Monitoring Plan specifies the LAX rain gage, which is adjacent to the MdrRH.</li> <li>3. The analysis included data collected prior to November 2009; however, several low flow diversions (LFDs) have been installed to address non-storm water discharges during dry weather and the last of these became operational in fall 2009. Therefore, using data prior to fall 2009 does not reflect current conditions with the LFDs in place.</li> <li>4. The numbers of winter dry- and summer dry-weather days during the critical year, which were used in the calculations, were incorrect; therefore, the calculation of exceedance days was also incorrect.</li> </ol> <p>On July 1, 2014, Regional Water Board staff met with City staff to further discuss alternative approaches to calculating and applying the interim limitations in light of recent water quality monitoring results. The Board continues to conclude that the approach used to calculate</p>	

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		<p>the interim limitations set forth in the tentative TSO is appropriate for Marina del Rey Harbor.</p> <p>However, the Board finds it appropriate to add a task to conduct visual observation and, where non-storm water discharges are observed, water quality monitoring to evaluate the recent increase in exceedance days at some locations and to determine compliance with the interim limitations in the TSO. The Regional Water Board is also committed to continuing interactions with the City to ensure the successful implementation of the actions in the proposed TSO.</p>	
Heal the Bay	<p>Allowing an additional 3.5 years to meet public health standards is inappropriate and not protective of human health. Of note, the recently adopted Inner Cabrillo Beach Bacteria TMDL TSO was only granted 2.5 years additional time for compliance. What was the reasoning for the additional time in this case? Further, we are not convinced that 3.5 years is as short as possible to comply with final receiving water limitations. At a minimum, we suggest that the TSO timeframe be shortened.</p>	<p>During development of the tentative TSO, Regional Water Board staff discussed the scheduling of the projects in the TSO with the County and the City. Many of the proposed projects involve retrofitting County-owned parking lots with BMPs. Because the Marina is very densely developed and heavily trafficked by residents and visitors, these projects must be phased to preserve enough available parking to meet demand. In addition, the TSO necessarily allows some time for the County, the LACFCD, and the City to evaluate the effectiveness of the implemented BMPs prior to the expiration date of the TSO.</p>	No
Heal the Bay	<p>If the Regional Board grants a TSO, we urge the Board to include a requirement for permanent beach postings at Mothers' Beach identifying human health risks</p>	<p>Though the TSO temporarily allows for exceedances of the bacteria objectives during its term, this does not necessarily mean there will be daily continuous exceedances that would warrant permanent signage.</p>	No

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	<p>associated with high bacteria counts. Placing permanent signage would help educate the public on the human health risks associated with water contact recreation at Mothers' Beach over the duration of the TSO.</p>	<p>However, the County has an independent duty under the California Code of Regulations, title 17, section 7961 to post signage notifying the public of potential health risks when sampling locations at Marina Beach exceed any of the single sample bacterial water quality objectives. Therefore, it is not necessary to include permanent posting of signage as a requirement of the TSO. Furthermore, pursuant to California Water Code section 13300, time schedule orders shall include a detailed time schedule of specific actions a discharger shall take in order to correct or prevent a violation of requirements. Permanent signage indicating a possible health threat is not, in and of itself, an action to correct or prevent a violation of permit requirements.</p>	
Heal the Bay	<p>We are also concerned that several of the projects that have been implemented have not received the proper operation and maintenance and suggest that specific operation and maintenance requirements be inserted into the TSO to assure that implemented projects/devices are functioning properly. Specific operations and maintenance requirements in the TSO, such as the development of an operations and maintenance plan, would help to ensure control measures are fixed in a timely fashion and reduce human health risks.</p>	<p>The Regional Water Board concurs and will require an operation and maintenance plan be included as part of the Pollution Prevention Plan.</p>	Yes
Mr. Fay	Page 2, Finding 11 states "LACFCD	"Oxnard" has been corrected to "Oxford" in Findings 10	Yes

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	owns and operates the Oxnard Flood Control Basin..." Please correct "Oxnard" to "Oxford".	and 11.	
Mr. Fay	While LACFCD has managed the Oxford Bird Conservation Area as a flood control facility since 1972, the waters are currently tidally influenced and fall under the jurisdiction of the State. Does the LACFCD "own" the Oxford Basin?	The LACFCD owns and operates the Oxford Flood Control Basin.	No
Mr. Fay	Page 8, Finding 31.i lists 293 retrofitted catch basins with trash screens. Have the City and County provided maintenance schedules to the LARWQCB to verify management compliance?	MS4 discharges within the Marina del Rey Subwatershed are subject to the requirements of the Santa Monica Bay Debris TMDL. One of the requirements is to demonstrate that trash capture systems for any drainage area are adequately maintained. However, the County and City of Los Angeles are not required to provide maintenance schedules to the Regional Water Board with regard to their catch basin trash screens. Nonetheless, the City of Los Angeles has reported to the Regional Water Board that the City-owned catch basins within the Marina del Rey Watershed are cleaned twice a year.	No
Mr. Fay	Page 9, Finding 32.c states, "Removal of trash from all County facilities in the Marina on a daily basis." This has not occurred and is not being enforced. Trash that accumulates in the Oxford Basin Flood Control Facility and Marina del Rey Harbor does not get removed on a daily basis. Some of the trash in the	<p>The responsibility for managing trash in and around the Marina del Rey Harbor is shared between the County of Los Angeles and the lessees.</p> <p>The Los Angeles County Department of Beaches and Harbors is responsible for managing trash at County facilities within the Marina, which include Marina Beach, Burton Chase Park, County transient docks, the public</p>	No

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	<p>Oxford Basin has been there for years. In the Marina Del Rey Harbor, long handle nets are not provided on every dock to scoop up floating trash.</p>	<p>boat launch ramp, and public parking lots. The County also has debris boats, which are deployed daily to collect trash within the main channel and the basins; however, the debris boats do not venture into the individual boat slips. Beaches and Harbors' personnel remove trash that accumulates adjacent to the Oxford Basin, while the LACFCD maintains the Oxford Basin.</p> <p>The lessees of the various anchorages are responsible for trash that may accumulate within the individual slips. In addition, the owners of apartments and commercial establishments adjacent to the Marina del Rey Harbor are responsible for trash management at their respective properties.</p>	
Mr. Fay	<p>Page 10, Finding 41. Are multi-benefit BMPs actually being implemented? The attached study required identifying treatment facility locations that were never identified. The City managed Thatcher Maintenance Yard is ideal for the County's Oxford Basin. Also, bio-filtration plants are not included in the Oxford Basin to reduce bacteria levels and upstream BMPs to reduce trash entering the Oxford Basin to less than 4" diameter are not working.</p>	<p>Through implementation of the TSO, the County, the LACFCD, and the City will be constructing structural BMPs, a number of which will provide multiple benefits. For example, the Oxford Retention Basin Multiuse Enhancement Project will increase sediment storage capacity by removing contaminated sediment, which will also improve water quality. The project will also improve habitat by removing invasive species and replanting with native vegetation. Other projects required by the TSO include bioretention and/or biofiltration treatment BMPs at multiple parking lots, which will provide multiple benefits such as water quality improvements, greening of a highly urbanized area, and a supplemental source of localized irrigation supply.</p> <p>Finally, with regards to treatment facilities, the County</p>	No

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		has constructed three LFDs within the Marina del Rey subwatershed. One of these LFD is located at Washington Boulevard and Thatcher Avenue.	
Mr. Fay	Page 10, Finding 42. I don't believe the City and County are in full compliance.	Finding 42 of the TSO does not make any statement about the current status of compliance by any of the three permittees. This finding indicates that <u>if</u> the County, the LACFCD, and the City are in full compliance with their respective applicable requirements as set forth in the TSO, <u>then</u> they will be exempt from mandatory minimum penalties for violations of the final water quality-based effluent limitations for total coliform, fecal coliform, and enterococcus applicable to their MS4 discharges during dry weather to Marina Beach and Back Basins D, E and F, as set forth in Attachment M of the Los Angeles County MS4 Permit, pursuant to California Water Code section 13385(j)(3).	No
Mr. Fay	Page 11, Finding 44. In order to protect the environment projects need to comply with County policies, the Coastal Act Sections, and Prop 84 language. In my opinion, the proposed Oxford Basin Multi-Use Enhancement Project does not fulfill “the protection of the environment.” Issuance of a TSO will not significantly improve water quality.	With regard to the Oxford Basin Multi-Use Enhancement Project, the commenter did not provide adequate detail for the Regional Water Board to respond to his concern.  A TSO is an enforcement action that includes a detailed time schedule of specific actions a discharger shall take in order to correct or prevent a violation of permit requirements. In this case, the permit requirements at issue are the water quality-based effluent limitations and corresponding receiving water limitations for bacterial indicators applicable to Marina del Rey Harbor. The TSO is designed to ensure improvements in the bacterial water quality of Marina del Rey Harbor are achieved within the	No

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		<p>term of the TSO.</p> <p>The projects that the County, the LACFCD, and the City implement as part of the TSO must comply with all applicable requirements and permits of this agency or other agencies with jurisdiction, as required.</p>	
Mr. Fay	<p>We need projects and actions that do improve the health of swimmers while simultaneously improving habitat value. As an ocean swimmer and professional scuba diver I know and respect this. The water quality has degraded significantly due to the County leadership's lack of cooperation with the State. Don't allow the County leadership to get away with further delays. We need honesty, transparency, and action by your Board.</p>	<p>The TSO requires the County, LACFCD, and the City to undertake specific actions to control bacteria in their MS4 discharges to Marina Beach and Basis D, E, and F to bring their MS4 discharges into compliance with the final water quality-based effluent limitations and corresponding final receiving water limitations for bacteria. The time schedule provides the necessary time for the three permittees to undertake actions either individually or collectively in is as short amount of time as possible.</p>	No
Mr. Fay	<p>Provided as additional comments, Mr. Fey forwarded an email discussion between himself and Ms. Debbie Dyrer Harris, District Director in Councilmember Mike Bonin's office, regarding the Oxford Basin Project.</p>	<p>The Regional Water Board reviewed the email correspondence provided by the commenter and concluded that the correspondence was unrelated to the TSO and the permit requirements that the TSO addresses. In addition, it appears from the correspondence that the Councilmember's District Director answered the commenter's questions about the Oxford Basin Project.</p>	No