

DRAFT Comment Summary and Responses
 Comment Deadline: September 30, 2015 by 12:00 noon

An Amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to Incorporate the Total Maximum Daily Load (TMDL) for Indicator Bacteria in the San Gabriel River, Estuary and Tributaries

List of Commenters:

Comment Reference	Organization	Representative
1	Los Angeles Department of Water & Power	Michael Hanson
2	General Public	Joyce Dillard

Response to Comments:

No.	Author	Comment	Response
0.1	Multiple	<p>Many of the comments submitted in opposition to the State Water Resources Control Board's (State Water Board) approval of this amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to incorporate the Total Maximum Daily Load (TMDL) for Indicator Bacteria in the San Gabriel River, Estuary and Tributaries were either previously submitted to the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and submitted verbatim to the State Water Board without further explanation, or were not timely raised before the Los Angeles Water Board and no explanation was provided as to why the commenter was unable to raise the specific comment before the Los Angeles Water Board.</p>	<p>The State Water Board's Notice of Opportunity to Comment concerning this Basin Plan amendment accurately informs interested persons of the procedural requirements used to implement the State Water Board's regulatory programs. According to the State Water Board's CEQA Regulations (23 Cal. Code Regs. § 3779, subd. (f)):</p> <p>The state board, when considering approval of a regional board's adoption of an amendment to its water quality control plan or guideline, shall prescribe a comment period of not less than 30 days. The state board may refuse to accept any comments received after the noticed deadline. All comments submitted to the state board must be specifically related to the final amendment adopted by the regional board. If the regional board previously responded to the comment, the commenter must explain why it believes that the regional board's response was inadequate. The commenter must include either a statement that each of the comments was timely raised before the regional board, or an explanation of why the commenter was unable to raise the specific comment before the regional</p>

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			<p>board. The state board may refuse to accept any comments that do not include such a statement. The state board is not required to consider any comment that is not in compliance with this section.</p> <p>Several of the comments submitted to the State Water Board opposing this matter are either identical to a comment submitted to the Los Angeles Water Board at the time the draft version of this regulation was under consideration by the Los Angeles Water Board, or was not timely raised to the Los Angeles Water Board. Where a comment was not timely raised to the Los Angeles Water Board, the commenter did not include an explanation of why the commenter was unable to raise the specific comment before the Los Angeles Water Board. Where a commenter has merely repeated the comment submitted below or did not timely raise it to the Los Angeles Water Board, the comment does not comply with the above-quoted regulation or the State Water Board's Notice of Opportunity to Comment.</p> <p>During its consideration, the Los Angeles Water Board received and provided written responses to all significant comments. Los Angeles Water Board's responses either indicated that changes would be made to the regulatory provisions or related documentation in view of the comment (in which case corresponding changes were made), or the Los Angeles Water Board's written responses indicated that changes would not be made, and the response indicated why not.</p> <p>The State Water Board cannot divine what the commenter believes has been adequately satisfied by the Los Angeles Water Board, nor can it determine the</p>
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			reason for any remaining dissatisfaction. Without that information, the State Water Board does not have a fair opportunity to understand what, if any, remaining concerns exist.
1.1	Michael Hanson	The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the proposed SGR Bacteria TMDL resolution. LADWP supports the SGR Bacteria TMDL. The TMDL provides a balanced approach to dealing with the sources of bacteria in the SGR and provides a mechanism to apply to those sources which are significant contributors. By focusing compliance on those sources that impact the SGR, the maximum benefit can be achieved.	Comment noted.
1.2	Michael Hanson	LADWP's Haynes Generating Station (HnGS) discharges its process wastewater and once-through cooling water into the SGR located in Long Beach. Since 2008, HnGS has been doing its part by removing the sanitary waste component from the process wastewater discharges. LADWP began the process of redirecting this waste stream to the sanitary sewer in 2008 and in 2012, a final permanent connection to the Long Beach sanitary sewer was completed. Presently, all sanitary waste from the facility is discharged directly to the sanitary sewer.	Comment noted.
1.3	Michael Hanson	With the recent (September 10, 2015) adoption of the AES Alamitos Generating Station permit, which occurred after the Los Angeles Regional Water Quality Control Board (RWQCB) adopted the San Gabriel River Bacteria TMDL, LADWP has become aware that there may be various ways of interpreting the TMDL and applying it within National Pollutant Discharge Elimination System (NPDES) permits. Upon review of the TMDL, LADWP had concerns regarding background concentrations already present in the source water that may show as a significant source in the Reasonable Potential Analysis (RPA). LADWP has the following specific comment on the proposed	Due to the recategorization of the discharge from a marine discharge to an estuarine discharge, the recently adopted NPDES permit (No. CA0001139) for Alamitos Generating Station requires the permittee to comply with the Los Angeles Region Basin Plan water quality objectives for bacteria as effluent limitations based on Waters Designated for Water Contact Recreation (REC-1). Effluent limitations for indicator bacteria for the discharges covered under NPDES permit No. CA0001139 are based on the REC-1 water quality objectives in the Basin Plan and are not related to the

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		<p>SGR Bacteria TMDL, Waste Load Allocation Section, page 5. LADWP agrees with the premise that non-MS4 dischargers are not expected to be a significant source of bacteria to the SGR. Providing a mechanism for these facilities to show through an RPA that the discharges from their facilities do not contain significant levels of bacteria is an effective means to monitor and analyze only those discharges that may pose a threat to the SGR.</p> <p>LADWP supports the State Board in that facilities that do not contribute bacteria due to a process and/or activity at the site should have the opportunity to show that they are not a source through the RPA process. However, should bacteria monitoring be included in the NPDES permit, these facilities should be responsible only for those bacteria concentrations contributed to the water as it passes through their facility processes. Facilities whose primary function is unaffiliated with the aggregation and treatment of stormwater, urban runoff, or wastewater should not be liable for the bacterial contributions of others beyond the facility's control. This would address the clear distinction between the various discharges to the SGR.</p> <p>For this reason, LADWP requests that the State Board clarify in its adopting resolution that facilities that do not have a specific bacteria source be allowed relief for background concentrations beyond the facility's control - not related to the facility's activities or processes.</p>	<p>San Gabriel River Bacteria TMDL.</p> <p>The San Gabriel River Bacteria TMDL (page 5) adopted by Los Angeles Water Board states that <i>“Non-MS4 dischargers that do not have existing effluent limits for bacteria are not assigned WLAs. Any future point source discharges must be evaluated to determine whether reasonable potential exists for the discharge to be a source of bacteria that could cause or contribute to an exceedance of the applicable water quality standards. If reasonable potential analysis (RPA) during permitting process does not indicate reasonable potential then effluent limits do not need to be included in the permit.”</i></p> <p>LADWP’s Haynes Generating Stations discharges once-through cooling water, drawing from Alamitos Bay into the San Gabriel River Estuary and is considered a non-MS4 discharger. Therefore, the reissuance of the NPDES permit for LADWP’s Haynes Generating Station must contain the requirements of the San Gabriel River, Estuary and Tributaries Bacteria TMDL applicable to the discharge. However, if reasonable potential analysis (RPA) during the permitting process does not indicate reasonable potential for the facility to discharge bacteria, then bacteria effluent limits are not required to be included in the permit.</p> <p>The RPA process that will be undertaken as part of the permitting process for the Haynes Generating Station is outside of the scope of this item.</p> <p>It should be noted that the Haynes Generating Station draws its source water from Alamitos Bay, which is currently listed on 2010 Clean Water Act (CWA) section</p>
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			<p>303(d) List due to the impairment by indicator bacteria. The CWA does not make special allowances for intake pollutants. Use of intake water as cooling water by an industrial facility and the subsequent discharge of that cooling water is an “addition” subject to CWA regulation. It is irrelevant that the pollutants did not originate within the facility. Intake pollutant relief cannot be reconciled with the requirement to establish limits that implement water quality standards.</p>
<p>2.1</p>	<p>Joyce Dillard</p>	<p>California Water Code (CWC) Section 13241 Economic Considerations appear to be defined in savings reduction, but what is the cost?</p>	<p>See response to Comment No. 0.1. This comment was not timely raised before the Los Angeles Water Board nor was an explanation of why the commenter was unable to raise the specific comment provided.</p> <p>Although this comment was not directly addressed by the Los Angeles Water Board because it was not timely raised, the State Water Board deems that the comment is sufficiently addressed in the Los Angeles Water Board resolution, adopting the amendments, including the substitute environmental documents, and supporting staff report. Because this TMDL implements existing water quality objectives, it does not establish water quality objectives and no analysis of the factors identified in Water Code section 13241 is required. Nonetheless, a reasonable range of economic factors was considered in the adoption of this TMDL. That analysis along with the substitute environmental documents and supporting staff report were completed in fulfillment of the applicable provisions of the California Environmental Quality Act (Public Resources Code Section 21159).</p>

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2.2	Joyce Dillard	California Water Code (CWC) Section 13241 Need to Develop Housing within the Region has not addressed costs to the homeowner.	See response to comment 2.1.
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