



California Stormwater Quality Association®

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

November 6, 2014

California Regional Water Quality Control Board, Los Angeles Region
Attention: Dr. Ginachi Amah
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Consideration of Adoption of a Resolution Retaining the Current Recreational Beneficial Use Designations for Engineered Channels of the Los Angeles River Watershed

Dear Dr. Amah:

The California Stormwater Quality Association (CASQA) appreciates the opportunity to comment on the review of beneficial uses in engineered channels in the Los Angeles (LA) River Watershed. CASQA is California's largest professional, non-profit association dedicated to stormwater quality issues. CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to over 22 million people in California and includes most every Phase I and many Phase II municipal separate storm sewer system (MS4) programs in the State. CASQA's primary purpose is to assist regulators, municipalities, and others in implementing national pollutant discharge elimination system (NPDES) stormwater requirements. Please accept these comments and recommendations submitted by CASQA on behalf of its members.

Although CASQA typically refrains from commenting on individual regional basin planning or resolution processes, the tentative resolution by the Los Angeles Regional Water Quality Control Board (Regional Water Board) is potentially precedent setting. CASQA is commenting in this instance because this timely triennial Basin Plan review process is concluding that recreational use designations for highly modified channels are appropriate when a comprehensive report prepared by Regional Water Board staff presents clear evidence to the contrary in numerous instances.

The designation of beneficial uses within waterbodies is foundational to all of our efforts to protect of water quality since it ultimately drives all of the regulatory programs, including stormwater that must be implemented to protect those beneficial uses. Thus, it is critical that beneficial use designations are made using available technical information, take into account the suitability of the water body for that use, and reflect the actual existing or potential uses within waterbodies to ensure environmental protection programs, such as the stormwater program, are able to target resources in a meaningful and cost effective manner within a watershed. If the beneficial use designation process disregards available information, local governments will be required to expend limited resources protecting uses that do not exist and are not attainable to the likely detriment of restorative projects that are attainable and have broad and enthusiastic public support such as the proposed revitalization of the Los Angeles River mainstem.

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CASQA is encouraged the Regional Water Board has taken it upon itself to reevaluate beneficial use designations as part of a triennial review. The Recreational Use Reassessment (RECUR) is especially important, since it was born out of the LA River Bacteria TMDL (page 9) as a mechanism to:

- 1) Address the concerns raised by MS4 permittees that not all waterbodies had existing and attainable recreational uses.
- 2) Potentially provide an opportunity to utilize downstream-based/regional solutions (see page 57 of the LA River Bacteria TMDL) to protect beneficial uses where they occur.

The implementation of the RECUR process has resulted in a significant amount of information about the existing and potential ability to recreate within the watershed. This information provides the ability to differentiate between waterbodies in terms of existing uses, ability to access channels, and potential revitalization efforts. However, the Regional Water Board staff is now proposing the Los Angeles Regional Water Board resolve that all engineered channels within the LA River watershed are essentially equal in terms of existing or potential recreational uses. **Table 1** presents an example comparison of some of the summary information contained in Regional Water Board staff reports that provides a contrast between a mainstem LA River reach (Reach 3) and secondary tributaries. This contrast is also highlighted in **Figures 1** and **2**.

Table 1. Comparison of Summary Information for Los Angeles River Reach 3 and Several Secondary Tributaries in the Los Angeles River Watershed^[1]

Summary Information	LA River Reach 3	Halls Canyon	May Canyon Creek	Las Tunas Canyon
# of Contact REC Activities Observed	14	0	0	0
# of Non-Contact REC Activities Observed	1,965	0	0	0
Access into Channel	Various locations along bike path	None	None	None
Channel Walls	Mixed Vertical and Trapezoidal	Vertical	Vertical	Vertical
Water Depth Observed (inches)	13.0 (average)	1.32 (max)	0.5 (max)	0 (max)
Minimum Water Depth Observed (inches)	8.5	0	0.1	0
Uses Revitalization Efforts Would Affect	REC-1 and REC-2	None known	None known	None known

^[1] All information was obtained from Final Technical Report (Part I of RECUR Report) and Draft Staff Report (Part II of RECUR Report).

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Table 1 summarizes the contrasts between the waterbodies:

- Reach 3 had multiple observations of contact recreational uses during the study period whereas the tributaries had zero observations.
- Water depth in Reach 3 is on average over 1-foot, whereas the tributaries generally have less than 1 inch of water.
- Reach 3 has a major revitalization effort underway that will continue to support opportunities for contact and non-contact recreational uses whereas the tributaries have no efforts planned.

Figures 1 and 2¹ provide another example contrast of the options available for existing contact recreation and potential opportunities. While Reach 3 has slopes allowing access and the ability for contact recreation. The same opportunity for contact recreation does not present itself in May Canyon Creek. It is clear from the evidence that no one would be able to safely recreate within May Canyon Creek. Therefore neither Water Contact Recreation (REC-1)² nor Limited Water Contact Recreation (LREC-1)³ are existing uses or reasonable potential uses, and Non-contact Water Recreation (REC-2)⁴ is a highly speculative existing or potential use.

¹ Source: *Recreational Use Reassessment (RECUR) of the Engineered Channels of the Los Angeles River Watershed (RECUR Report), Part I: Background, Methodology and Results*. Los Angeles Regional Water Board.

² **Water Contact Recreation (REC-1)** Uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, white water activities, fishing, or use of natural hot springs. (*Chapter 2: Beneficial Uses; Water Quality Control Plan for the Los Angeles Region (Basin Plan)*).

³ **Limited Water Contact Recreation (LREC-1)** Uses of water for recreational activities involving body contact with water, where full REC-1 use is limited by physical conditions such as very shallow water depth and restricted access and, as a result, ingestion of water is incidental and infrequent. (*Chapter 2: Beneficial Uses; Water Quality Control Plan for the Los Angeles Region (Basin Plan)*).

⁴ **Non-contact Water Recreation (REC-2)** Uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. (*Chapter 2: Beneficial Uses; Water Quality Control Plan for the Los Angeles Region (Basin Plan)*).

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Figure 1. Reach 3 of the Los Angeles River at Marsh Street Park



Figure 2. Reach 3 of the Los Angeles River at May Canyon Creek

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There are additional tributaries that also fall along the spectrum of accessibility, water depth, and/or revitalization. For example, some tributaries have identified revitalization efforts that may be undertaken, but these opportunities will only affect non-contact use opportunities. This information provides a robust basis for meaningful recreational use designations. However, the decision being proposed is a simple default to the continued broad application of recreational use designations across all waterbodies. The tentative resolution therefore appears to not be based on the necessary analysis of individual waterbodies and their conditions that should be the basis of any beneficial use designation. CASQA is concerned for both the integrity of the triennial review process and the likely misdirection of resources that will occur if investment cannot be targeted toward areas where the uses exist (e.g., the mainstem of the LA River and the downstream solutions identified in the LA River Bacteria TMDL).

Evaluating and reconsidering recreational uses to ensure implementation efforts target areas where uses occur is not solely a challenge for the LA Region. The Santa Ana Region also went through a stakeholder based use evaluation process. One result of that effort was a very limited removal of contact recreation uses (e.g., REC-1 uses but not REC-2 uses) where the use was found not to exist or be attainable. That outcome will now allow responsible parties to move forward with water quality improvement projects protective and/or restorative of genuine water contact recreational use opportunities and ensure that **limited resources will be used efficiently**.

Recommendations: CASQA recommends the Regional Water Board not adopt a resolution at this time so that Board staff, in partnership with interested parties, can complete a more detailed analysis of the tributaries via a stakeholder process. Alternatively, given the significant distinction between the findings for the mainstem and the tributaries, CASQA recommends limiting the resolution to the LA River mainstem reaches and postponing a resolution for the tributaries until an analysis can be completed.

Our comments are intended to provide you with a constructive approach to focus limited public resources on achievable outcomes. If you have any questions, please contact CASQA Executive Director Geoff Brosseau at (650) 365-8620.

Sincerely,



Gerhardt Hubner, Chair
California Stormwater Quality Association

cc: CASQA Board of Directors, Executive Program Committee, and Policy & Permitting Subcommittee