



February 14, 2013

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Re: Comments on the proposed approval of amendments to the *Water Quality Control Plan for the Los Angeles Region (Basin Plan)* to revise Total Maximum Daily Loads for Bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon, and to amend Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives ("Proposed Amendments")

Dear Chairman Hoppin and State Board members,

On behalf of Heal the Bay and Los Angeles Waterkeeper and the thousands of our members who swim, surf and play in the waterbodies affected by the Proposed Amendments, we submit the following comments to urge the State Water Quality Control Board ("State Board") to maintain strong public health protections for the Los Angeles Region and reject the Proposed Amendments pending their revision as outlined by our comments below.

As demonstrated by the continued exceedances of the waste load allocations of the five bacteria TMDLs subject to the Proposed Amendments, the health and well-being of millions of swimmers, surfers and beach goers of all ages continues to be at risk at Los Angeles rivers and beaches designated for recreational use (Attachments A and B). While the Proposed Amendments are a step forward in some areas, overall the Amendments fall short of ensuring the highest level of public health protection that can and should be provided to all Los Angeles residents and visitors rightfully attracted by our world-famous beaches or looking to explore recreational opportunities at our rivers.

We strongly support that the Proposed Amendments *do not* include sub-seasons and preserve a rolling 30-day geometric mean period. This is the correct approach, as calculating a static (non-rolling) geometric mean per sub-season would inhibit the ability to track chronic pollution problems. However, as expressed in our comments on the Proposed Amendments submitted to



the Los Angeles Regional Water Quality Control Board (“Regional Board”),¹ we disagree with the Regional Board’s decision to continue using Leo Carrillo Beach as a reference beach for bacteria TMDLs in the Los Angeles Region. We appreciate this opportunity to express our concerns.

A more appropriate reference beach, such as Nicholas Beach, should be used for Los Angeles Region Bacteria TMDLs

While we believe that a reference beach approach is an appropriate way to develop fecal Bacteria TMDLs, Leo Carrillo Beach is no longer an appropriate reference beach for bacteria TMDLs in the Los Angeles Region. Based on Heal the Bay’s analysis of Beach Report Card data for the Region and the land uses and level of development in the Los Angeles Region watersheds, a more appropriate reference beach for our Region is Nicholas Beach, located at the bottom of the Nicholas Canyon watershed.

As the Regional Board explained when it initially developed the reference beach approach for fecal bacteria TMDL’s in the Los Angeles Region, Leo Carrillo Beach and the Arroyo Sequit watershed were selected as an “interim” reference system “until other reference sites ... are evaluated and the necessary data collected to support the use of alternative reference sites”.² The criteria for selecting an appropriate reference system include: 1) availability of adequate historic shoreline monitoring data at the beach, 2) lowest level of development in the watershed draining to the beach, and 3) existence of fresh water outlet (i.e. creek) to the beach.³ The Regional Board’s original decision to choose Leo Carrillo Beach and its watershed as an interim reference site was primarily driven by the limited availability of historical shoreline monitoring data but the Regional Board unequivocally resolved to re-evaluate the use of Leo Carrillo Beach due to concerns with the development in close proximity to the beach.⁴

Shoreline monitoring data from the last 9 years has in fact confirmed the Regional Board’s concerns, demonstrating that Leo Carrillo Beach is not the appropriate reference site beach for fecal bacteria TMDLs in the Los Angeles Region. The data is unsurprising since Leo Carrillo Beach has significant development at the terminus of Arroyo Sequit Creek (the creek emptying at Leo Carrillo Beach), with numerous septic systems located near the bottom of the creek and by the beach as well as heavy use by campers of the areas in close proximity to the beach. The Regional Board’s Proposed Amendments contain no assessment of the current condition and effectiveness of these old and heavily used septic systems. As expressed in our previous comments, an analysis of the contributions of these systems to bacterial contamination in the lower watershed is long overdue and should be provided before Leo Carrillo Beach continues to

¹ Our comments to the Regional Board are enclosed in this letter as Attachment C.

² Regional Board Resolution No. 2002-002

³ See id. 4, ¶ 22

⁴ See id.



be used as a reference site for more than sixty Santa Monica Bay beaches visited by approximately 50-60 million beachgoers annually.

While the Regional Board staff report states that "...Leo Carrillo Beach ensures equal protection across Santa Monica Bay beaches," a review of the Region's beach water quality data for the last six years clearly shows that Nicholas Canyon is a more appropriate reference beach, with significantly less exceedances of the fecal bacteria indicator standards (Attachment D). Furthermore, Nicholas Beach meets the rest of the reference beach selection criteria developed by the Regional Board. Nicholas Beach and the Nicholas Canyon watershed have a very low level of development, there is ample historical monitoring data and there is a freshwater outlet at the beach, Nicholas Creek. For all of these reasons and to ensure adequate protection of public health at all Los Angeles waterbodies used for recreation, an alternate reference beach, such as Nicholas Beach should be used.

In summary, Heal the Bay and Los Angeles Waterkeeper urge the State Board to decline approval of the Proposed Amendments and return the Amendments back to the Regional Board with directions to determine an appropriate reference beach, such as Nicholas Beach, and resubmit the Amendments for State Board approval. *See* Cal. Wat. Code § 13245 (the State Board may return a proposed basin plan revision to the regional board for further consideration and resubmission). Determining an appropriate reference beach is pivotal to public health protection throughout the Los Angeles Region.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Amanda Griesbach".

Amanda Griesbach, MS
Water Quality Scientist
Heal the Bay

A handwritten signature in black ink that reads "Kirsten James".

Kirsten James, MESM
Water Quality Director
Heal the Bay

A handwritten signature in black ink that reads "Tatiana K. Gaur".

Tatiana Gaur
Staff Attorney
Santa Monica Baykeeper