

LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS' COMMENTS ON PROPOSED TOTAL MAXIMUM DAILY LOADS FOR BACTERIA IN THE MALIBU CREEK WATERSHED

The following are the comments of the County of Los Angeles Department of Public Works concerning the proposed Total Maximum Daily Loads (TMDLs) for Bacteria in the Malibu Creek Watershed (TMDL document).

First of all, we would like to recognize the US EPA Region 9's (EPA) effort to identify all possible source categories of bacteria, including septic systems, irrigation runoff, agricultural runoff, wildlife, and waterfowl, and assign to them load allocations. It is noteworthy that the Regional Board has assigned no load allocations for such sources in the Santa Monica Bay (SMB) bacteria TMDLs. We believe it is significant that EPA included various sources of bacteria and estimated their contributions to the impairment due to bacteria.

EPA Response: *Comment noted.*

However, after reviewing the TMDL document, we believe that major improvements are needed in the source assessment and load allocation elements of the TMDL. These elements do not provide sufficient guidance for implementation of the TMDL. For example, Table 19 of the TMDL document states that the annual fecal coliform loading from residential and commercial areas should be reduced by 69% without specifying the sources and their associated bacteria load reductions within the developed areas. Such a situation would constitute a challenge for municipalities due to the lack of necessary source identification and pollution reduction quantification for efficient reduction of pollution. EPA also acknowledges this deficiency is significant in its Region 9's *Guidance for Developing TMDLs in California*, by stating, "it is important to express load allocations in ways that can be implemented and monitored effectively." *Guidance, p. 6.*

EPA RESPONSE: *We have provided information in Table 14 of the TMDL which better describes the sources of bacteria by watershed and land use. We believe this provides sufficient information for municipalities to identify the areas and activities within their respective jurisdictions which contribute most to bacterial loadings.*

The approach outlined below is a methodology we would like to propose to better develop the TMDLs in ways that would improve the efficiency of TMDL implementation.

First, water quality data and other relevant information would be collected to identify high bacteria loading areas in streams. To accomplish that, we would need to monitor bacterial water quality and flow rates at adequate sampling frequencies and locations, taking into consideration variability of the flow rate and

bacterial water quality along the stream. We believe that the Watershed-Wide Monitoring Program mentioned in the TMDL document can serve as a framework for such monitoring.

Once the high bacteria loading spots in the watershed are identified, field investigations would be conducted to search for all sources of bacteria such as commercial and residential area, septic systems, wildlife, waterfowl, the homeless population, etc. in the tributary areas that drain into the water bodies. After the identification of the potential sources, sampling of storm water, surface water, and groundwater would be conducted at various locations in the tributary areas to verify and quantify the relative contributions of these sources to the elevated bacteria levels.

Loading rates at hot spots in the streams and the estimated contributions from each source location would provide useful information for source analysis and waste load and load allocations. This would allow for the development of efficient site-specific TMDL implementation strategies. It is noteworthy that this approach was followed recently by researchers in Orange County to successfully identify locations that caused bacterial exceedances in coastal waters and to compute bacterial loading rates at each loading location in the Huntington Beach area.

Therefore, we recommend EPA and the Regional Board to collaborate with the stakeholders to identify the best approaches, such as the one presented here, which will provide the dischargers with accurate information of pollution sources and help them attain water quality standards effectively.

EPA Response: *We agree that the Watershed-Wide Monitoring Program could provide information to support the development and implementation of the TMDL by the Regional Board. However to our knowledge the Watershed wide strategy is not focused on identification of hot spots, nor toward field investigations to identify sources. We also note that the Huntington Beach example was the product of a multi-million dollar effort. Each monitoring decision is a decision that affects monitoring resources. EPA can make recommendations but the decisions will be made ultimately by the Watershed Council. We encourage the Regional Board and the County to work with the Malibu Creek Watershed Council to ensure that the monitoring program is designed to address TMDL needs.*

Specific Comments

These comments go to specific aspect of the TMDLs document.

Information to Develop Load Allocations

We are concerned that some of the information used to make modeling assumptions such as the failure rate of septic systems is outdated according to the City of Malibu at the February 4, 2003 workshop. Additionally, we are concerned that there are significant gaps in the water quality data used for the model, especially in the upper portions of the watershed. As a result, inaccurate conclusions may have been drawn regarding the relative contributions of various sources of pollution.

EPA Response: *The total daily allowable loads developed for bacteria TMDL did not rely on model or model assumptions but were calculated by multiplying the daily flow times the single sample standard. The model was used to estimate loads from various sources and estimate load reductions that would be required to meet the daily allowable loads. The assumptions used in the model were provided by the Regional Board. We have been informed by the City of Malibu that some of the assumptions were outdated in that they do not reflect progress that has been made to reduce sources and that the actual loadings are much less than depicted in the TMDL report. If this is indeed true then the load reductions needed would be less. We have not been provided with the more current information. We are encouraging the City of Malibu to work with the Regional Board to incorporate any additional information they might have into future TMDL reviews and development of implementation strategies.*

With these possible limitations, we recommend that EPA note in the TMDL document that the load allocations and proposed reductions set forth in the TMDL reflect only an interim assessment based on incomplete data and that the load allocations and proposed reductions will be revised as more accurate information becomes available.

EPA Response: *The load reductions presented in the TMDL are intended to provide the implementing agencies with information to guide source reduction efforts. We encourage the Regional Board to revise the TMDL if necessary as additional information becomes available.*

Implementation Recommendations

We have two concerns about Section 6, entitled "Implementation Recommendations." First, as noted above, the source identification and load allocations of the TMDL are based on incomplete information, and do not form an appropriate basis for implementation decisions.

EPA Response: *We believe the source assessment section of the TMDL and the allocation section provide sufficient guidance for implementing agencies to begin targeting source reduction efforts.*

Second, EPA is not required under either the Clean Water Act or implementing regulations in the Code of Federal Regulations to suggest implementation recommendation. The *Guidance for Development TMDLs in California* cited in the TMDL Document does not require EPA to make implementation recommendations for TMDLs that it promulgates. The State has responsibility for establishing implementation measures through the Basin Plan. *Guidance*, p. 16.

EPA Response: *The recommendations in section 6 were based on information provided by the Regional Board and are intended to provide guidance to the implementing agencies. They are recommendations not requirements.*

Thus, we respectfully suggest that Section 6 of the TMDL document be deleted. If EPA believes that the recommendations should be contained as an informational item in the TMDL document, it should explicitly indicate that.

Water Contact Recreation Use for Flood Control Channels

We are concerned about applying the water contact recreation (REC-1) bacteria objective to portions of Malibu Creek tributaries that are flood control channels. Flood control channels are illegal to access; moreover, during wet weather, it is dangerous (and in fact, impossible) to use them for water contact recreation due to high flows. The application of such stringent objectives to flood control channels that cannot be used for water contact recreation during wet weather will result in the need for extraordinary efforts to control bacteria.

EPA Response: *The REC-1 objective is part of the existing Basin Plan. The issue of the appropriateness of the standard to certain waters in Malibu Creek is not part of this TMDL.*

Therefore, we recommend that Use Attainability Analysis be performed to identify the most appropriate beneficial uses for those portions of the Malibu Creek watershed that are comprised of flood control channels and level of protection be adjusted accordingly.

EPA Response: *The commenter would need to broach this subject with the Regional Board.*

Critical Year

The critical year (1993) used in the TMDL document was based on data from the Regional Board's SMB beaches bacteria TMDLs. It should be made clear that this is storm year 1993, which was the year used in the SMB beaches TMDL. We understand that EPA used the storm year in its calculations but the number of wet days listed in the TMDL document is based on the calendar year, so it should be changed from 69 to 75 days.

EPA Response: *We used the 1993 calendar year in the TMDL rather than the storm year. This does not in any way effect the allowable daily load. The net effect of this deviation from the SMB approach on load reduction is minor. The Regional Board may want to consider options to revise the load allocations when they review or revise the TMDL.*

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We appreciate the opportunity to make these comments, and wish to thank EPA for providing an opportunity for stakeholders to discuss with the agency some of their concerns. We look forward to working with EPA, the RWQCB, and other stakeholders in developing appropriate and implementable bacteria TMDLs for the Malibu Creek watershed.