

MEMORANDUM OF UNDERSTANDING

among

United States Environmental Protection Agency, Region 9 (U.S. EPA),
California Regional Water Quality Control Board, Los Angeles Region (Regional Board),
City of Los Angeles (City); and

referred to herein singularly as “Party” and collectively as “Parties”

Regarding

STAKEHOLDER EFFORT TO DEVELOP STRATEGIES FOR ATTAINING WATER QUALITY STANDARDS FOR THE LOS ANGELES RIVER AND BALLONA CREEK

Whereas, the Clean Water Act (CWA) Section 303 (d) provides for the identification of waters for which applicable technology-based effluent limitations are not stringent enough to meet water quality standards, and establishment of total maximum daily loads (TMDLs) for those waters that are identified under CWA Section 303 (d); and

Whereas, as defined in CWA and in federal and state regulations, water quality standards include the designated and beneficial uses of a water body, the adopted water quality criteria or objectives, and the State of California anti-degradation policy; and

Whereas, TMDLs are written plans and analyses established to ensure that the waterbody will attain and maintain water quality standards; and

Whereas, segments of the Los Angeles River and Ballona Creek have been identified as impaired and not meeting the water quality standards. The Los Angeles River flows 51 miles from the western end of the San Fernando Valley to Queensway Bay and the Pacific Ocean at Long Beach. Ballona Creek flows approximately 10 miles from Los Angeles through Culver City, reaching the Pacific Ocean at Playa del Rey; and

Whereas, attainment of water quality standards may require longer-term, strategies sometimes in coordination with other TMDLs including regulated, and non regulated activities; and

Whereas, U.S. EPA is the federal agency responsible for the implementation of the CWA and for oversight of states acting or exercising authority pursuant to the CWA; and

Whereas, the Regional Board is the state agency primarily responsible for developing and implementing strategies for the attainment of water quality standards within the Los Angeles Region); and

Whereas, in March 1999, U.S. EPA entered into a Consent Decree in *Heal the Bay v. Browner* in which U.S. EPA agreed to ensure establishment of certain TMDLs, including TMDLs for the

Los Angeles River and Ballona Creek, pursuant to a schedule set forth in the Consent Decree; and

Whereas, the Consent Decree provides for a 1-year backstop for U.S. EPA to adopt TMDLs if not adopted by the State by the Consent Decree deadlines; and

Whereas, the Regional Board has established priority rankings for TMDL development for impaired water segments in the Los Angeles Region including those for the Los Angeles River and Ballona Creek, as required under U.S. EPA implementing regulations. The priority rankings, together with the consent decree schedules, affect the strategy and schedule for water quality standards studies and development of TMDLs for the Los Angeles River and Ballona Creek; and

Whereas, in December 2002, the Regional Board, the SWRCB, and U.S. EPA proposed the “Draft Strategy for Developing TMDLs and Attaining Water Quality Standards (WQS) for the Los Angeles Region,” which described an overall strategy for the attainment of water quality standards in the region and outlined a process whereby interested stakeholders may lead and participate in the development of TMDLs and in conducting WQS studies; and.

Whereas, the City expressed its intent to U.S. EPA and the Regional Board to lead a stakeholder effort for water quality standards studies and development of TMDLs for the Los Angeles River and Ballona Creek, in recognition that such efforts can have significant impacts on the environmental and economic health and welfare of the City; and

Whereas, the Parties’ desire to enter into this MOU and set forth their intent to work through a stakeholder effort in conducting water quality standards studies, waterbody and pollutant assessments and developing TMDLs in the Los Angeles River and Ballona Creek; and

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. PURPOSE AND GOAL OF THE MOU

The purpose of the MOU is to establish a collaborative partnership by which the Parties will work cooperatively through a stakeholder process to design and conduct comprehensive studies that can be used as a basis to develop water quality attainment strategies, including TMDLs.

The Parties will cooperate to perform the necessary work required for TMDL planning and implementation. This cooperation between regulators and regulated local agencies is intended to improve water quality in the Basin with the use of planning and implementation efforts that are comprehensive, coordinated, and cost-effective.

2. STRATEGY

The Parties will work cooperatively through a stakeholder effort to address and develop TMDLs for listed water segments and listed pollutants under the State Section 303 (d) list for the Los Angeles River and Ballona Creek.

The stakeholders will prepare Work Plans for each TMDL and submit to the Regional Board and U.S. EPA for approval prior to commencing the work contained in these Work Plans. These efforts are also intended to achieve applicable quality assurance requirements that are satisfactory to the Regional Board and U.S. EPA.

The Regional Board and U.S. EPA are committed to considering the information developed from this stakeholder-led process. However, nothing in the MOU or the implementation thereof is intended to, or shall have the effect of: (1) constraining or limiting any Party in executing its statutory or regulatory responsibilities or discretion, or (2) waiving of any rights in any administrative or judicial forum. This MOU does not modify any agency's existing authorities by reducing, expanding, or transferring any of the statutory or regulatory responsibilities of any of the signatory agencies.

3. ROLES AND RESPONSIBILITIES OF MOU PARTIES

This MOU establishes the roles and responsibilities for the Regional Board, U.S. EPA, and the City as follows:

- a) The Parties will commit to work together for the implementation of this MOU.
- b) Each Party is responsible for any necessary notification or update with that Party's respective management, or organization with respect to the terms and conditions, the results, subsequent agreements, and all other substantive matters related to this MOU and efforts or projects undertaken in this MOU.

4. STAKEHOLDER CHARTER

A Stakeholder Charter document that will govern the goals, purpose, and activities of the Steering Committee for this stakeholder effort will be drafted. The Stakeholder Charter will form the basis of organizational structure, communications, and protocols for the working relationships of the stakeholders. The Stakeholder Charter will reference and be compatible with this MOU.

5. COMMUNICATIONS AND RESOLUTION

The Parties to this MOU will commit to ongoing, timely, and open communications to identify issues and problems at early stages of development and provide time, if needed, for resolutions. In the event that deficiencies, delays, or other circumstances occur during the course of work, the Parties will initiate, in an expeditious manner, discussion and actions as necessary to resolve said

deficiencies, delays, or other circumstances. In the event that a dispute arises regarding any aspect of this MOU, the Parties agree to assign appropriate individuals to resolve the dispute. .

6. FUNDING

Nothing in this MOU will be construed as obligating any of the Parties to expend money or obligate appropriations.

7. AGREEMENT WITH OTHER AGENCIES AND FURTHER ACTS

The Parties will cooperate fully with one another. In the event that any other agreements need to be entered with other agencies, such agreements shall be consistent with this MOU.

8. OWNERSHIP OF DOCUMENTS

All work or deliverables, including originals, that is prepared and produced by anyone in connection with, or pertaining to, the work undertaken in this MOU, will become the property in whole and in part of the Parties, jointly and severally. Work and deliverables produced through work undertaken in this MOU will not be proprietary.

For TMDLs ultimately developed and issued by U.S. EPA, the City agrees on behalf of the Steering Committee to submit all data and information that the Stakeholder Committee relied upon in developing its TMDL submission. Data submitted to U.S. EPA will become part of the Administrative Record.

9. AMENDMENT

The MOU may be amended at any time with the unanimous approval of the three Parties.

10. TERMS

Any Party may withdraw from this MOU by providing 30 days written notice to the other Parties.

This MOU is not intended to, and does not create, any right, benefit, or trust responsibility by any party against the United States, State of California, its agencies, or its officers.

This MOU is an internal agreement among the Parties and does not confer any right or benefit on any third party, private or public.

IN WITNESS WHEREOF, the Parties to this MOU have caused this agreement to be executed on their behalf as of the date specified below, respectively, as follows:

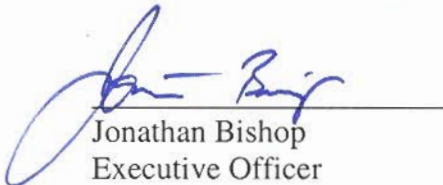
Executed this 1st day of March, 2005 by:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



U.S. EPA Region 9

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD



Jonathan Bishop
Executive Officer

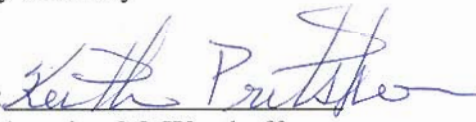
CITY OF LOS ANGELES



Rita Robinson, Director
Bureau of Sanitation

Approved as to Form:

Rockard J. Delgadillo
City Attorney

By: 
Christopher M. Westhoff
Assistant City Attorney