

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

Comment Number	Commenter	Section	Comment	Response
1	Heal the Bay	Section 7	<p>The proposed Bacteria TMDL compliance timeline for dry weather (31 years), is unacceptable from a public health standpoint. As a point of comparison, Malibu Creek’s Bacteria TMDL implementation plan identifies compliance dates for summer dry-weather as 3 years from the effective TMDL date, and winter-dry and wet weather compliance as 6 and 10 years from the effective TMDL date. While we understand that the LA River Watershed is larger and may have additional complexities, there is no reason that this TMDL should be given an extra 28 years for summer dry-weather compliance. To provide additional perspective, Hyperion completed a multi-Billion dollar upgrade to secondary treatment and the local sewer infrastructure within 10 years. Beach-goers should not be subject to 31 years of polluted water and increased health risk!</p>	<p>There are significant differences between building wastewater infrastructure and implementing a TMDL through urban runoff controls. For example, Hyperion represents one discharge point and funding for construction at Hyperion can be paid for through user fees that are not subject to a citizen vote (unlike funding for stormwater).</p> <p>Note that beach-goers should expect significant water quality improvements by Year 11 based on the schedules for Segment A and B of the LA River and Rio Hondo, Compton Creek, and Arroyo Seco.</p>

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2	Heal the Bay	Section 7	The proposed Bacteria TMDL implementation plan for dry weather, should not take longer than 10 years, and would ideally be completed within 5 years. Heal the Bay will not support any implementation plan that exceeds 10 years for dry weather compliance.	<p>The schedule was developed based on extensive analysis of BMP action levels and feedback from stakeholders during CREST workshops. Consider the following components:</p> <p>Size of watershed: the LA River watershed is huge, over 6 times as large as Ballona Creek. This TMDL includes over 50 miles of the LA River and 100 miles of tributaries (~700 outfalls flowing during dry weather).</p> <p>Assumptions are very conservative: for cost and scheduling, the very conservative assumptions were used. For instance, only 20% of the outfalls were assumed to require controls. The timeline and cost for individual BMPs are reasonable (3.5 years and \$1.7M dollars for an LFD).</p> <p>Implementation rate is rapid: the proposed schedule is based on a rolling implementation, in which the design of a new project is begun <u>every 6 months</u>. The implementation period for each LA River segment and tributary is quite short: 2 years to Plan, 4 years to Execute, and 2 years to Assess. It is the large number of segments and tributaries that drive the schedule longer (not the rate of action).</p> <p>Costs are enormous: even though the implementation assumptions were conservative, the resulting costs for this TMDL are huge. Even very small cities are facing hundreds of thousands of \$\$ in costs for this TMDL, see below. Note that these costs <u>do not</u> include wet weather, which will likely add an order of magnitude additional cost. Decreasing the schedule proportionately increases these annual costs.</p>

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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3	<i>Heal the Bay</i>	Section 7	<p>The document appears to go back and forth as to whether Waste Load Allocations (WLA's) would be numeric (as discussed in previous comments this should be based on bacteria density) or if the proposal calls for WLAs to be <u>the</u> Load Reduction Strategies themselves. ["The WLA will be incorporated into the applicable NPDES permits as the BMPs identified through the procedures outlined in this Implementation Plan" Draft at 6].</p> <p>Numeric WLAs must be included in all permits, and they must include numeric targets based on bacteria density, not on loading. The document should reflect this.</p>	<p>To be consistent with this TMDL, WLAs should be incorporated into the MS4 permits as numeric load-based WLAs that will be attained through the implementation of BMPs. Compliance with these WLAs can be achieved with by implementing Load Reduction Strategies, or by simply attaining the WLA as discussed in the document and as presented in Appendix 2 (potential permit language). WLA attainment is demonstrated through outfall monitoring. Per USEPA TMDL guidance, attainment of the WLAs will result in attainment of water quality standards.</p>
4	Heal the Bay	Section 7	<p>Further, all references to USEPA's draft 2008 Guidebook should be removed. In a recent letter to the State Water Resources Control Board, USEPA stated that "we have found that permitting agencies typically do not have the necessary supporting documentation in the permit's record to demonstrate that BMPs are expected to be sufficient to implement WLAs." Moreover, this is only a draft document.</p>	<p>Reference was changed to cite recent Phase 1 MS4 Permits in southern California including Orange County, which include provisions for action-based MS4 compliance, given reasonable assurance is provided.</p> <p>The approach to Load Reduction Strategies provides a mechanism to develop the necessary supporting documentation in the Permit's record to demonstrate BMPs will be sufficient to implement WLAs. The ability to provide such a demonstration is a key difference between this TMDL and others that have been previously developed.</p>

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5	Heal the Bay	Section 7	The document takes the concept of “functional equivalence” for compliance purposes to the extreme which is not protective of the TMDL goals (water quality standards attainment). The only two instances where a “functional equivalent” should even be considered are when there is disinfection or complete elimination of runoff during the dry season.	Each of the Functional Equivalent approaches requires demonstration of reasonable assurance of WLA attainment, and demonstration that WLAs are attained using TMDL monitoring.
6	Heal the Bay	Section 7	It is inappropriate for CREST to be developing permit language (page 8).	A primary goal of the CREST process is to assist the Regional Board with development of TMDLs to create sound, achievable, Water Quality Attainment Strategies that will set the direction for effective TMDL Implementation. TMDLs are not self implementing, rather, the requirements outlined in a TMDL are included into permits. As such, permit language was developed in an effort to support the Regional Board with incorporation of the Implementation Plan section into MS4 permits in an effective manner.

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7	Heal the Bay	Section 7	<p>(Page 9) Water quality standards need to include the following bacteria standards for fresh water: (only <i>E. coli</i> single-sample exceedance limit is included in proposal)</p> <p>Geometric Mean Limits Indicator MPN/100mL <i>E. Coli</i> 126 Fecal Coliform 200</p> <p>Single Sample Limits Indicator MPN/100mL <i>E. Coli</i> 235 Fecal Coliform 400</p>	The implementation of the WLA for Individual Industrial Wastewater NPDES Dischargers is consistent with the allocations section of the TMDL, which are based on the <i>E. coli</i> Basin Plan objective. A Basin Plan amendment to remove the fecal coliform WQO is planned.
8	Heal the Bay	Section 7	A clear definition of summer and winter dry weather time period (April-Oct), (Nov-March) needs to be included.	Summer and winter dry weather time periods are not separated in the Implementation Sections as WLAs apply throughout the year to be protective. Also, dry weather BMPs in the region are generally operated year-around, regardless of season and thus the seasonal categories (summer and winter) were not included in this TMDL.
9	Heal the Bay	Section 7	The draft Implementation Plan fails to address sediment within the waterbody. Concrete-lined channels should be maintained through regular maintenance at least twice a year (1x pre-AB411 (before April 1 st), and 1x during the AB411 period). This includes clearing sediment, trash, and debris, which can collectively contribute to increasing bacterial loading in the channels.	In this case, there appears to be conflict between sediment as habitat and sediment as a source of bacteria. Many shorebird species use the LA River as habitat, and forage sediment deposits for food. If sediment is indeed a source of bacteria, perhaps, the attainability of the water quality objectives should be re-evaluated.

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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10	Heal the Bay	Section 7	(Page 10) The document needs to clarify which BMP's used for compliance in a Metals TMDL implementation plan would be assumed to eliminate bacteria loading (infiltration or wetland enhancement).	The statement is intended to encourage discharges to identify BMPs that address multiple pollutants for which TMDLs have been developed.
11	Heal the Bay	Section 7	In-stream solutions should only be considered on a case-by-case basis and should not be considered for a "functional equivalent". The only time that the compliance point should be immediately downstream of the in-stream solution and not in the tributary is when there is no potential for recreational use in the tributary (no access) and it is a trapezoidal concrete lined channel.	Comment noted. There are a multitude of issues associated with the use of in-stream solutions. The intent of the information presented was to identify potential approaches and associated issues so that if an agency is interested in pursuing such an approach then there is awareness of the challenges related to feasibility. Considerations related to feasibility include whether a recreational use is existing and attainable. For an in-stream solution to be functionally equivalent and for the project to move forward it would have to be determined to be feasible.
12	Heal the Bay	Section 7	An annual report should be required, specifically with a summary of projects completed and monitoring results. Historical monitoring results and/or trends would be beneficial to include for progress tracking.	Added an Annual Progress Reporting requirement in the MS4 WLA implementation section.
13	Heal the Bay	Section 7	The TMDL reopeners described occur too frequently. The Regional Board can reopen a TMDL at any time if there is a need. Prescribing a reopener schedule hasn't been successful with previously adopted TMDLs.	Revised the re-opener schedule.
14	Heal the Bay	Section 7	What type of "quantitative analysis" is proposed for ensuring BMPs will be WLAs? (page 17).	The details of the quantitative analysis are contained in Appendix 1 (see Tables 1, 3, and 4 of the appendix)

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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15	Heal the Bay	Section 7	It is unclear how our comments are being considered, as we have not gotten any responses to comments from our last submittals.	The CREST Team is working to respond to comments and provide a response-to-comments matrix for each TMDL Technical Report section.
16	City of Downey	Page 11	<p><i>“If an MS4 Permittee does not submit the LRS components in compliance with the schedule in Section 7.10, or does not fully implement the actions identified in an approved LRS, then the MS4 Permittee is considered out of compliance with the TMDL. “</i></p> <p>CREST cannot determine what an individual Permittee chooses to submit to the regional Board, and they accept, as in implementation strategy.</p>	<p>Language was modified to be clear that this statement applies if the MS4 discharges choose to comply with the TMDL through implementation of an LRS.</p> <p>It is not meant to require MS4s to employ LRS’s.</p>
17	City of Downey	Page 11	City of Downey would likely to propose a parcel based source reduction strategy with a long timeline.	Comment noted.

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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18	City of Downey	Page 11	<p><i>“For MS4 Permittees that utilize another lawful implementation approach that is not based on Load Reduction Strategies (the “Traditional” approach), then compliance is based on timely attainment of numeric WLAs, as opposed to performing specific implementation actions.”</i></p> <p>Why is this an issue? What if Downey wants to perform different specific actions, rather than throw \$ at another city?</p>	<p>A major feature of the LRS approach is that MS4 compliance is based on performing BMP actions. The LRS approach provides reasonable assurance that the employed BMP strategies will result in WLA attainment. As such, Downey could identify different specific actions and conduct an analysis as outlined in Section 7 (e.g., Monte-Carlo or equivalent) to provide reasonable assurance that these other actions will result in WLA attainment thereby providing the information needed for an LRS.</p> <p>MS4s may use non-LRS approaches, but the compliance is based on attainment of WLAs as opposed to performing action, because reasonable assurance has not been provided.</p> <p>Individual cities may use LRS approaches; they are not required to coordinate with other agencies.</p>
19	City of Downey	Page 13 End of 7.4.2	<p>Since there is an SSO program, if wastewater is reported to escape collection, then discharges from the drainage system should be ignored for a period following the SSO event, otherwise we are in a double jeopardy situation. (Addressed in Appendix 1)</p>	<p>The WLAs include this provision that SSOs are not considered MS4 discharges, though responsible agencies must continue to take the required actions to control and report all SSOs.</p>

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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20	City of Downey	All	<i>E. coli to E. coli</i> observed multiple times in this chapter.	Corrected.
21	City of Downey	All	Wherever <i>“revised by the Regional Board through a Basin Plan Amendment”... change to “revised by the Regional Board through a <u>legally adopted</u> Basin Plan Amendment”</i>	Revised.
22	City of Downey	Page 16	Page 16 is based on an assumption that the impairment of Long Beach beaches is due LAR discharges. This assumption should not be made until other sources of bacteria those beaches has been eliminated, or at lease enumerated. This includes wildlife, natural biofilms, and Long Beach drainage.	There are certainly other sources that contribute to the impairment of Long Beach beaches, but the LA River is a major discharge to those beaches. Thus reduction of bacteria concentrations in the LA River should improve water quality on Long Beach beaches (though other sources may need to be controlled for those beaches to attain water quality standards).
23	City of Downey	Page 16	Unless humans are the source (in which case we are in circular logic path), the impairments in Reach A&B, may be significantly due to sources beyond local controls. We cannot accept a TMDL that makes illegal uses legal. By that logic, agencies should not be responsible for individuals using the river as a toilet. Since entrance into the channel is generally prohibited, this area should not be a priority.	The LA River is designated as REC-1 and therefore must be protected as such unless the beneficial uses are de- or re-designated. The determination that Segment A and B are high priority was based on feedback from CREST meetings and workshops.

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24	City of Downey	Page 16	Footnote 6 neglects other areas where recreation is encouraged adjacent to the river such as the Sepulveda FCB and Glendale Narrows with easy access. Areas where human access has been encouraged by local agencies should take precedent.	<p>Edited the footnote to highlight Sepulveda Basin and Glendale Narrows.</p> <p>The determination that Segment A and B are high priority was based on feedback from CREST meetings and workshops.</p>
25	City of Downey	Page 17	<p><i>The prioritization approach does not account for the feasibility of implementation actions, such as installation of infiltration or low-flow diversions.</i></p> <p>We should not be proposing infeasible TMDLs IPs. If we don't know what is feasible, then the IP should identify a schedule for finding out what is feasible.</p>	<p>The IP states that the schedule could be re-considered if further study shows that specific implementation efforts are not practicable (e.g., without a major sewer or treatment plant upgrade) under the implementation schedule, or if it is determined that the <i>actual</i> level of BMP controls that are necessary for this TMDL is much greater than <i>estimated</i>.</p>

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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26	City of Downey	Page 17, Priority 1	We need to distinguish between recreational use and illegal use. Using the river as a bathtub and toilet does make it a recreational water body. Given that natural sources appear to exceed storm drains in Reach 2, the proposed LRS is unlikely to have significant impacts on the Long Beach beaches. Implementation along Reach B will be the most problematic of all because of the number and divergent nature of the stakeholders.	<p>The LA River is designated as REC-1 and therefore must be protected as such unless the beneficial uses are de- or re-designated.</p> <p>Human fecal discharges were observed in multiple outfalls along Segment A and B during the BSI Study, and control of those discharges is expected to improve the level of protection for recreational users at Long Beach beaches.</p> <p>Relative to other segments, additional “Plan” time was provided in the implementation schedule for Segment B, which would assist with development of stakeholder coordination agreements.</p>
27	City of Downey	Page 27	Given that receiving waters may remain impaired indefinitely due to natural sources, resulting in repeated iterations of LSR, why would use of wetland only put a specific discharge on the list multiple times?	This comment is unclear, but the wetland BMP in Table 4 is only used as a hypothetical example. Stakeholders may use any BMPs-of-choice. If an LRS approach is used, reasonable assurance of WLA attainment must be provided.

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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28	City of Downey	Downstream-based LRS	If a UAA is appropriate for a downstream diversion, why not for the whole reach and before implementing the LRS?	<p>A UAA may be appropriate for a number of reaches and/or tributaries in the Watershed.</p> <p>The UAA issue is discussed within the Downstream-based LRS approach because an agency could implement a Downstream Solution at the mouth of a tributary, but later be required to implement additional controls along the tributary so that the <i>entire</i> tributary meets WQOs. One way to avoid this “double implementation” scenario would be to perform a UAA.</p> <p>It is worth noting that if the adoption of a UAA was linked to implementation of a BMP to control discharges from that waterbody to downstream waterbodies, then it might be more politically-acceptable.</p>
29	City of Downey	Source-based LRS	I am not sure that a source based program can not be structurally based and more quantifiable. As an example, the LAR Metals TMDL estimated the Rio Hondo flow at 0.5 CFS, I believe that table 8 suggests the flow is now about half that value.	Comment noted.

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30	City of Downey	All	<p>In many regards, the Implementation Plan leads back to the question as to whether the indicator Bacteria (Recreational) Standards make any sense for effluent dependent waters. It seems that the Board has little interest in considering a UAA until after multiple billions of local resources are expended. Maybe a neutral party or panel should look at the question as to whether it is reasonable to close public swimming pools, to stop a few problematic drains that will have minimal impact on bacteria numbers in the river. Also the fairness issue of why one city should support remediation in another city.</p>	<p>The LA River is designated as REC-1 and therefore must be protected as such unless the beneficial uses are de- or re-designated.</p> <p>The idea of a “third party” or Advisory Committee to look at these issues has been raised in CREST meetings as well. Additionally, on April 1, 2010 the Regional Board adopted a resolution setting basin planning priorities for the 2008-2010 Triennial Review period that included two priorities that could have a significant impact on the implementation of the Los Angeles River Bacteria TMDL ([1] determining how bacteria water quality objectives should be applied and in compliance determination and [2] reconsidering the application of REC-1 and REC-2 beneficial uses in specific instances). Because of the significance of the potential outcomes of these two Triennial Review priorities, the formation of a LA River Water Quality Standards Task Force (LARWQSTF) to consider these issues was included in Section 7. The LARWQSTF would be a stakeholder process that is tasked with supporting the implementation of the Triennial Review priorities.</p>

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30	City of Downey	All	Also concerned about the fairness issue of why one city should support remediation in another city.	The LRS approach encourages but does not necessitate cooperation among cities. Individual cities may perform LRS approaches (or non-LRS approaches) on their own. It is believed that by working together a more cost effective approach to meeting WLAs can be identified and implemented.
31	City of Downey	Appendix 1, page 7 first paragraph	<i>is a stepwise and additional actions needed both regulatory actions and structural actions (a few too many actions, get out the thesaurus)</i>	Corrected.
32	City of Downey	Appendix 1	The WOE approach is a wise prioritization strategy, since we have more to do than time or money with which to achieve the TMDL's objectives.	Comment noted. Emphasis of BMP actions on human sources is encouraged.
33	City of Downey	Page 12 Footnote 2	Concerned that this statement suggest the load would be distributed among the permittee "groups". What if a community is already "clean" i.e. The Rio Hondo is 120 square miles (20% of the watershed and negligible in loading). How can those communities reduce their already negligible load and why is this punishment proportional to the crime of being relatively clean and ahead of the BMP/WQ curve?	The distribution of the group-based WLA is based on drainage area. Thus, while cooperation among Permittees is encouraged, each municipality could be assigned its own allowable loading. That allowable loading is not based on current conditions (storm drain flows, concentrations, etc.), it is solely based on the assimilative capacity of the LA River and the relative drainage area of the City. A city that was "clean" would be meeting their WLA and not be punished as long as they demonstrated WLA attainment.

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34	City of Downey	Appendix 1, Page 12	<p><i>All Permittees along the LA River segments/tributaries addressed under this TMDL are responsible for implementing bacteria source control actions as necessary to meet the WLAs.</i></p> <p>Delete this statement. It is an admission of guilt and infinite culpability for natural impairments.</p>	<p>This statement was not deleted, but it was clarified. There is no admission of guilt in that statement. It is meant to clarify that cities that are in the interior of the Watershed (i.e., the discharges drain through another city) are responsible for meeting WLAs and cannot absolve themselves of responsibility simply because they do not discharge directly into the LA River or tributaries.</p>
35	City of Downey	Appendix 1, Page 14	<p>How do we get from step #2 to #3? Is there an initial step to get from 1431 to 864 (like drains that did not fit the WOE criteria?) Assuming we eliminated R2A and reduced the load of 864 by 140 how come the residual load is still 730? Why are increments bouncing up and down, I would have thought we'd see a decreasing marginal benefit for each additional drain?</p>	<p>The expected loading from all outfalls along Segment B is 1431×10^9 MPN per day. Elimination of R2-A leads to an expected loading of 846×10^9 MPN per day. The sum of the medians is not the median of the sums. Therefore, while the median of R2-A is 140×10^9 MPN per day, its elimination has a larger effect on total storm drain loading. This same reasoning applies to "incremental differences" as additional Priority Outfalls are eliminated.</p>
36	City of Downey	Appendix 1, Page 14	<p>[Note: Order is from highest to lowest expected E. coli loading rate, but only WOE outfalls. "Cutoff "is drawn "below the outfalls that once addressed would result in meeting]</p> <p>Odd number of quotes</p>	<p>Corrected.</p>

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37	City of Downey	Appendix 1, Page 18	Footnotes c and d appear identical and other footnotes are used repetitively. Footnote b, has the responsible City been advised to provide input? At a hearing, some might ask, since it appears we have a localized source? I'm okay with going back during the outlier phase and finding the source eliminated or controlled.	Corrected. The Outlier outfalls would be investigated during the "Execute" phase of the LRS.
38	City of Downey	Appendix 1, Page 21	<i>"Construction of a pump station structure or manhole may require acquisition of property"</i> Don't forget other utilities, electrical, communication.	Inserted this additional complication.
39	City of Downey	Appendix 3	Error reference for Fig.1. ditto on Page 7, 16	Corrected.

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40	LACSD	7.5 and Appendix 3	<p>The costs for treating diverted dry weather runoff are based on data from the City of LA. Although we haven't looked at the specific location of each potential diversion, it appears that 50% or more of the diversions could be routed to the Sanitation Districts. The cost to treat the runoff sent to such diversions would be significantly different from the LA City costs. For runoff diversions directed to the Sanitation Districts' collection system, we would charge the diverters the standard rates that we apply to industrial discharges. These rates consist of a onetime hookup charge to pay for the additional capacity needed in our system, called a connection fee, and on-going charges to cover the cost of treating the water, called surcharge fees. As of July 2010, our connection fee will be approximately \$4000 per capacity unit (CU), where a capacity unit is set at the volume and strength typical of a discharge from a single family home. For a very low strength discharge of 1 MGD, 2577 CUs would be required. The connection fee would therefore be \$10,300,000. The surcharge fee for a discharge with 10 mg/L suspended solids and 10 mg/L COD would be \$715/MG, or \$261,000 over the course of a year for a 1 MGD discharge. If there were 122 diversions routed to the Sanitation Districts at 0.15 cfs per diversion (11.82 MGD total), the connection fee would be \$122 million and the surcharge fees would be \$3.1 million per year.</p>	<p>The previous analysis had already been approximately separated into areas where the diversions more likely might be tributary to LACSD. Therefore the estimate was simply revised to apply the LACSD cost methodology rather the City of LA methodology to the diversions that are assumed to be directed to LACSD. This is reflected in the revised document in terms of text revisions and revised tables and figures.</p>

Response to Comments Matrix for the Los Angeles River Watershed Bacteria TMDL Technical Report Section 7: Dry Weather Implementation Plan, dated February 2010

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41	LACSD	7.5 and Appendix 3	These costs are for 122 diversions at 0.15 cfs per diversion. If it becomes necessary to treat all dry weather runoff (610 outfalls), the costs would increase by a factor of approximately 5 (connection fee of about \$600 million, surcharge fee of about \$15 million/year).	Agree that the maximum exposure could potentially be much greater regardless of whether treated by City of LA or LACSD if more subwatersheds/outfalls needed to be addressed. This is generally noted in the text with the conditions and assumptions clearly stated for why a smaller number of outfalls has been assumed to potentially achieve the necessary load reduction.
42	LACSD	7.5 and Appendix 3	These costs do not include any costs associated with routing the runoff from the diversions to the Sanitation Districts' collection system.	Each diversion has a limited length of discharge piping included in the costs that is presumed to reach the closest sewer with some capacity. It is possible that in some cases a portion of the local collection system may not be able to accommodate the additional discharge which would then require additional piping. This is acknowledged, but it is not possible to do any sort of site specific assessment at this preliminary assessment level, so it is discussed in qualitative terms only and recognized that costs could potentially be higher.

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43	LACSD	7.5 and Appendix 3	The Sanitation Districts can only accept dry weather diversions where we have adequate capacity in our sewer lines and treatment plants. Therefore, solutions other than dry weather diversions will be needed in some cases. Where only limited capacity is available, the diverters will be required to construct storage so that runoff can be discharged during off-peak hours. This will incur additional costs, potentially including land acquisition costs.	Again, similar to above, it is possible that some locations may require more extensive infrastructure or alternative solutions which cannot be predicted at this preliminary assessment stage. This is acknowledged in the document.
44	LACSD	7	Although this implementation plan does not address wet weather, please be aware as you move forward with the wet weather implementation plan that the Sanitation Districts cannot accept wet weather flows.	Understand and agree. Any wet weather solutions will need to rely on other methods and BMPs for implementation and not on diversions to the wastewater system.