Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

COMMENTORS

Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
fax 310 496 1902

info@healthebay.org
www.healthebay.org

January 27, 2012

Dr. Cindy Lin (lin.cindy@epa.gov) (WTR-2)
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd. Suite 1460
Los Angeles, CA 90017

Re: DRAFT Total Maximum Daily Loads (TMDLs) for Sediment and Invasive Exotic Vegetation in Ballona Creek Wetlands

Dear Dr. Lin,

On behalf of Heal the Bay, we submit the following comments on the Draft Total Maximum Daily Loads (TMDLs) for Sediment and Invasive Exotic Vegetation in Ballona Creek Wetlands ("Draft TMDL" or "TMDL"). This TMDL takes a unique approach to developing wasteload and load allocations for impairments that have been caused by multiple stressors over a long period of time. We support many aspects of this TMDL, particularly the inclusion of the Ballona Wetland Restoration Project in the implementation recommendations as a path forward in achieving water quality standards in the Ballona Wetlands (Draft TMDL Page 71). As you know, the restoration planning effort has been in progress since 2004 and is founded on sound science and extensive stakeholder input. The TMDL states "Restoring the proportional mix of wetland habitat types at Ballona Creek Wetlands will provide the connectivity needed for interdependent wetland ecosystem to function and achieve the beneficial uses that are currently impaired." (Draft TMDL Page 64). The "proportional mix" mentioned here pertains to the mix present in the 2000 acres of wetland that existed in the late 1800s, which is the approach taken in the Restoration Plan. This method of restoration is superior to merely restoring what was once in the 600 acre footprint of the restoration project because it will provide a more diverse habitat to restore key wetland functions and habitats lost from areas adjacent to the current footprint. This has potential to help fill gaps in wetland habitat type currently present throughout the Southern California Bight coastal region.

We also strongly support the inclusion of a numeric target and WLA/LA of "zero" invasive exotic vegetation. This is the only number that will lead to beneficial use attainment, as any presence of these species quickly results in habitat loss and impairment of beneficial uses.

Despite these positive elements we have a few questions and concerns regarding the proposed Draft TMDL. For instance to ensure that this TMDL is implemented effectively, USEPA must urge the Los Angeles Regional Water Quality Control Board to adopt a comprehensive monitoring plan and implementation plan that includes compliance milestones and deadlines. In

Heal the Bay
1444 9th Street
Santa Monica CA 90401
ph 310 451 1500
fax 310 496 1902
info@healthebay.org
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addition, we are concerned about the potential complications with disposal options for the sediment that is to be removed from the Ballona Wetlands in order to meet the waste load allocations (WLAs). These questions and concerns are explained in more detail below.

Questions and Clarifications

In addition to elevation, has USEPA considered targets for salinity in the TMDL?

The Draft TMDL establishes numeric targets in the form of ranges of elevations associated with habitat types in Southern California tidal wetlands (Table 11 Page 52). How did EPA select the height from the range, and what is the justification? Are grade elevations alone enough to meet beneficial uses? What are the assurances that this is the case? This especially needs to be addressed in the Restoration Plan. Perhaps EPA should do calculations of ranges of sediment volumes on each end of the elevation range and have the final restoration plan determine an appropriate height to better facilitate flexibility for the restoration effort.

Soil salinity is a factor that should be considered in this TMDL. As the Staff Report states, "Tidal inundation was one of the major determining factors of large scale spatial vegetation patterns in Mediterranean-climate salt marshes; *the other determining factor was soil salinity*, which was inversely correlated to tidal inundation" (Page 61, emphasis added). Soil salinity plays a role in the type of vegetation inhabiting the wetland (presumably this was historically salt tolerant vegetation). Thus, a salinity target could aid in meeting the target of zero invasive species. For instance, *Salicornia virginica*, a desired native, is a halophyte (salt tolerant) plant, while ice plant, one of the worst invasive plants in our region, is not as salt tolerant. Due to the importance of salinity, has USEPA considered including a salinity target in this TMDL in addition to elevation? What are the barriers to including a target for soil salinity? **Comment 1**

USEPA should clarify the role of responsible parties in the implementation of this TMDL.

We agree with those responsible parties that are delineated in the Ballona Wetlands TMDL. However, the TMDL contains responsible parties who typically do not have permits with the Regional Board, including Army Corps of Engineers, California Department of Fish and Game, State Lands Commission, The Southern California Gas Company, among others. What is the mechanism of accountability for these responsible parties? Also, will responsible parties be required to help fund the restoration effort? **Comment 2**

Heal the Bay
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www.healthebay.org

USEPA should clarify the role of current sediment loading in the wetland functions.

The Draft TMDL states that existing discharge of sediment is not contributing to impairment (Page 66). From conversations with staff, we understand that the sediment contributing to the impairment is a legacy sediment issue. Given upstream development, the Ballona Wetlands are actually starved for sediment flux, which is one of the needs of a functioning wetland. USEPA should clarify and provide justification for this reasoning within the Draft TMDL. **Comment 3**

USEPA and the Regional Board should urge the responsible parties in the TMDL to work toward 100% beneficial reuse of sediment.

The Draft TMDL requires over three million cubic yards of sediment to be removed from the wetlands to restore natural wetland functions. Where is the sediment going to be placed? Will the sediment be tested for contamination? As you know from USEPA's involvement in the Contaminated Sediment Task Force (CSTF) and the Southern California Dredged Materials Management Team (SC-DMMT), there is a shortage of beneficial reuse options for dredged sediment in our region. While the Ports have recently been successful in beneficially reusing their dredged material, other project proponents, such as the Army Corps of Engineers, have a hard time finding beneficial reuses for both clean and contaminated sediment in our region. In a recent dredging project that came before the Regional Board, one project proponent had to truck thousands of cubic yards of material from Cerritos Bahia over 30 miles to Olinda Alpha Landfill in Brea. Sometimes, more contaminated sediment has to be trucked out of state to Utah for disposal. This and other instances long-distance sediment transport highlight the larger need for a local regional solution designed specifically for the containment, treatment, storage, and reprocessing of dredged material as outlined in the CSTF's Long Term Management Strategy. Even more concerning is the fact that clean material is often designated for open ocean disposal, which is a waste of clean material and provides no benefit to the environment. Thus, we encourage the USEPA to include language in the TMDL that supports 100% beneficial reuse of the material dredged in the restoration of the Ballona Wetlands. Also the TMDL should include discussion on the volume of sediment that may be contaminated.

Also of note, it is important to have a facility capable of storing contaminated material as a back-up when beneficial reuse is not possible for that project or when there is a time-lag between the dredging activity and a beneficial reuse project. USEPA should collaborate with the Regional Board and the California Coastal Commission to move forward and make progress either creating such a facility or developing other options for reliable reuse of both clean and contaminated dredged material. **Comment 4**

Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
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www.healthebay.org

USEPA should work with the Regional Board to aid in the timely development of monitoring and implementation plans for this TMDL.

We are concerned that there is no monitoring or implementation plan associated with the Draft TMDL. While we understand that USEPA does not have this authority, it is critical that USEPA work closely with the Regional Water Board to ensure that all TMDLs in the Region have monitoring and implementation plans developed. An implementation plan still has not been developed by the Regional Board as a follow-up to the Malibu Creek Watershed Nutrient TMDL—nine years after EPA developed the TMDL. This has greatly hindered progress in meeting the TMDL. Implementation plans are crucial in ensuring that dischargers are on-track for ultimate compliance with the waste load allocations. In addition, a comprehensive monitoring plan is essential to assess progress towards meeting the WLAs and LAs and ultimately, to assess compliance with these allocations. Thus, the EPA should actively encourage the timely development of implementation plans and monitoring plans by including a recommended timeline and monitoring regime in the *Implementation Recommendations* section, and should work with the Regional Board and other stakeholders to develop them.

Monitoring efforts should be designed to determine if WLAs and targets are met and if the restoration effort is successful. Will there be a periodic review of target attainment? If so, how frequent will these reviews be? Also, if targets are not attained, what are EPA's next steps towards modifying the TMDL or implementing new measures? Who will be responsible for implementing these additional measures and ensuring that the measures are implemented?

Comment 5

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In conclusion, we are supportive of many aspects of this TMDL, such as the inclusion of invasive species target of zero, basing habitat acreages based on pre-development T-sheets for the wetlands and the inclusion of the Ballona Wetland Restoration planning efforts as a means to work towards compliance. However, we have a number of questions regarding the TMDL such as what will happen to the dredged sediment, what is the mechanism for holding responsible parties accountable, and what is the prospect of including ranges for salinity and ranges for sediment load allocations as numeric targets for habitat? We look forward to your responses to these and the other questions and concerns mentioned above. Also, the USEPA should work with the Regional Board to ensure the implementation plan development moves forward in a timely fashion and that disposal options for sediment from the wetlands are considered in the TMDL. If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

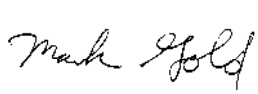
Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
fax 310 496 1902

info@healthebay.org
www.healthebay.org

Sincerely,



Mark Gold, D. Env.
President

Kirsten James, MESM
Water Quality Director

W. Susie Santilena, MS, EIT
Environmental Engineer

Response to Comments on the Total Maximum Daily Loads for Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

1. Heal The Bay

Response to Comment 1

In response to the comment, USEPA reviewed additional available information and studies regarding soil salinity levels in wetland habitats. Although soil salinity ranges for wetland habitats are available, these ranges are large and could not be used to develop meaningful numeric targets. Furthermore, the spatial scale of available soil salinity information is fairly coarse and represents the entire wetland areas and not the specific wetland habitat types, such as defined in the TMDL (i.e., subtidal, intertidal channel / mudflat, vegetated wetland, salt flat). Given the large variablility of the salinity range, a general wetland habitat soil salinity numeric target would not ensure the goal of a functioning wetland. It is important to note that achieving the elevation-based numeric targets presented in the TMDL report will lead to increased tidal flushing and associated increases in soil salinity.

USEPA based the height of the elevations on representative elevations from other coastal and tidally influenced wetlands in southern California (Zedler 2001). USEPA believes the combination of the elevations and the habitat type will be sufficient to meet beneficial uses because these represent the critical components of a functioning wetland. In addition, representative salinity levels specific to Ballona wetlands or other Southern CA coastal wetlands are not available. Furthermore, salinity values can be highly variable for each habitat type. Zedler pointed out the importance of salinity in coastal wetland ecology, but also found that the mix of variable tidal regime (i.e., a mixed semidiurnal tidal regime) and semiarid climate that dominates southern California result in an extremely broad range of wetland soil salinity and long periods of hypersalinity (Zedler, 1982). Furthermore, the Mediterranean climate provides low levels of precipitation (occurring seasonally during wet winters) and, depending on the inflow of freshwater and salt water, the soils may vary

considerably in salinity during the year (Zedler, 1982). Due to the high variability of the tidal and freshwater flow, even in natural systems, it is challenging to develop an appropriate salinity range for each habitat type. According to Mitsch and Gosselink (1993), salinity in the marsh soil water depends on several factors, including frequency of tidal inundation, rainfall, tidal creeks and drainage slopes, soil texture, freshwater inflow, etc., some of which are natural and others are controllable. This TMDL focused on those controllable factors that can lead to a functioning wetland.

USEPA established multiple wetland habitats with associated elevation range as numeric targets based on the necessary variables that are critical to the functioning of a wetland. Although there are numerous other factors required in a coastal wetland, USEPA finds that by identifying the appropriate habitats, based on reference information specific to Ballona Wetlands, this will lead to assurance that the appropriate functions are included, but also provide flexibility to allow for the dynamic system such as a wetland.

By setting elevation ranges associated with the habitat types, this assures that the appropriate water level is required from both saltwater and freshwater.

References:

Zedler, J.B. 1982. *The ecology of southern California coastal salt marshes: a community profile*. U.S. Fish and Wildlife Service, Biological Services Program, Washington D.C. FWS/OBS-81/54.

Zedler, J. B (Editor). 2001. Handbook for Restoring Tidal Wetlands. Marine Science Series, CRC Press LLC, Boca Raton. Florida.

Response to Comment 2

The TMDL assigns a joint load allocation to all of the identified parties. Given the long history of development and hydromodification in the Ballona Creek Wetlands, and the interconnected responsibilities of the identified entities which affect the management of the Wetlands, it is not possible for USEPA to establish individual load allocations for each entity. Instead, USEPA expects that the identified parties will work cooperatively to implement the sediment load reductions to ultimately meet the water quality objectives.

Consistent with federal regulations, this USEPA-established TMDL does not contain an implementation plan. The State is responsible for implementation, and can provide the accountability that the commenter seeks by specifying the actions that must be completed by responsible parties. The implementation plan will include elements such as a schedule and actions to be completed for the cooperative parties. Discussion with the state strongly assures USEPA that the appropriate regulatory mechanisms and tools will be implemented to achieve the goals, targets and allocations of the TMDL.

Response to Comment 3

USEPA agrees that it is important to consider that functioning wetland systems require a constant input of sediment, and has clarified this in the TMDL. Specifically, without the influx of sediment and freshwater from an upstream river, wetlands will slowly erode (sediment deposition from a watershed offsets sediment losses due to erosion). Due to the highly urbanized watershed upstream, there is a deficit of natural sediment loading into the wetland. Therefore, sediment loading to the Ballona Creek Wetlands is an important part of restoring a balanced system and, at the current rates, has little to no adverse impact on the Wetland.

Response to Comment 4

USEPA has been informed that the State's restoration plan includes detailed efforts to address the the deposition of the additional sediment. Specifically, the State currently plans to reuse the sediment on site due to the concern with cost and environmental issues with sediment disposal off site. Furthermore, the sediment is needed to support the restoration of the various lost wetland habitat types in Ballona Wetland and the lack of natural sediment loading into the wetland.

Response to Comment 5

The implementation of this TMDL rests with the State. USEPA encourages the State to ensure that this TMDL is implemented in a timely manner. In addition, the State is also working on a full-scale restoration of Ballona Wetlands that would address the TMDL's objectives. USEPA has included additional recommendations on the monitoring to evaluate the implementation actions. The Los Angeles Regional Water Quality Control Board will be responsible for monitoring attainment of targets and making any necessary adjustments to its implementation strategy.

State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.dfg.ca.gov

***EDMUND G. BROWN, JR**, Governor*
***CHARLTON H. BONHAM**, Director*

January 26, 2012

Ms. Cindy Lin
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Subject: Draft Total Maximum Daily Loads (TMDLs) for Ballona Creek Wetlands, County of Los Angeles

Dear Ms Lin:

The California Department of Fish and Game (Department) has completed its review of the U.S. Environmental Protection Agency (EPA) document *Draft Total Maximum Daily Loads (TMDLs) for the Ballona Creek Wetlands* and offers the following comments and recommendations. The Ballona Creek Wetlands was listed by the State of California in 1996 as an impaired water body under the Clean Water Act, Section 303(d), and the EPA is proposing to establish TMDLs to address the following impairments: habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation. The EPA has determined that the critical stressors causing the above impairments are legacy sediment and invasive exotic vegetation. It is for these two stressors that the EPA is establishing TMDLs for the Ballona Creek Wetlands.

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the State's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA), and administers the Natural Community Conservation Planning (NCCP) program. The Department also is responsible for the administration of the Streambed Alteration Agreement Program, which oversees potential threats to the State's wetlands resources.

The Department is the owner of 547 acres of the lands designated by the EPA as the Ballona Creek Wetlands. The State Lands Commission (SLC) owns the remaining 60 acres, of which 24 acres are included with the 547 acres owned by the Department to comprise the Department's Ballona Wetlands Ecological Reserve (CCR, T-14, Section 630). The remaining 36 acres of SLC-owned property consists of a separate freshwater marsh mitigation site for the Playa Vista development to the east. The freshwater marsh is not managed by the Department as a part of the State Ecological Reserve, but is managed by a private entity.

The Department, SLC, State Coastal Conservancy, and the Santa Monica Bay Restoration Commission are partnering to initiate a major restoration/enhancement project on the Ecological Reserve property. Planning studies are being completed, and the CEQA/NEPA process is anticipated to begin in the near future. The purpose of the

restoration effort is to expand and enhance tidal habitats at the Ballona Wetlands ER to increase habitat diversity, improve ecological functions of the estuary and surrounding lands, and enhance public recreational and educational opportunities.

The Department supports the general goals of the TMDLs proposed by the EPA, but wants to ensure that the goals the EPA is proposing are consistent and compatible with the goals of the wetlands restoration program currently underway. With that overall perspective the Department offers the following comments:

1. Freshwater Marsh:

   The document in several figures (Figures 2, 5, and 7) and in text indicates that the freshwater marsh lands are part of the Department's Ballona Wetlands Ecological Reserve. This is incorrect. While it was considered at the time the Ecological Reserve was established, the freshwater marsh mitigation site was not included in the Reserve, and is managed by a private entity, although owned by the State Lands Commission. The freshwater marsh lands are not proposed for any significant modification under the Ballona Wetlands Restoration Program, as their on-going maintenance is a requirement of permit compliance by the Playa Vista development. Please correct the document figures and text.

   Comment 1

2. Alternate Sediment Deposit Load Allocations for Ballona Creek Wetlands:

   The EPA proposes using historic habitat distribution data from the mappings of the Ballona Wetlands in 1876 and 1903 to estimate proportions of different habitat types that should be established in a contemporary restoration to meet TMDL requirements for sediment removal. In addition, current southern California lagoon systems were evaluated to calculate average acreages for tidally influenced habitats to try and guide restoration goals for habitat restoration at Ballona. While there is some logic to these attempts to use the past and other current lagoon systems to guide decisions about what a Ballona Wetlands restoration should look like, the Department has concerns that a strict attempt to mimic historic habitat proportions at Ballona, or those at other current sites with different watershed conditions, has significant limitations. The current site and watershed conditions at Ballona Wetlands are significantly different in terms of biology and hydrology than 100 years ago, and the same holds true for the other lagoons systems in southern California. The Department's goal for the site is to create an ecologically diverse and sustainable restoration that supports a high biodiversity, but keeps maintenance costs as low as possible. The restoration planners for Ballona Wetlands need to have as much flexibility as possible to meet those goals, given all of the site constraints. Because of this, the Department strongly recommends that the EPA's Alternate Sediment Deposit Load Allocations for Ballona Creek Wetlands (Table 18, page 68) be set as a range of acres for each habitat type instead of a fixed acreage goal. The Department suggests that a range of ±25% of the current acreage goals is reasonable, and would meet water quality standards (i.e. restore the Ballona Creek Wetlands to an

ecologically functioning wetland) while still providing the flexibility necessary for restoration planning at a constrained site. **Comment 2**

3. Legacy Sediment Deposit Load Allocations for Ballona Creek Wetlands (First Concern: feasibility):

The Department is concerned that the Legacy Sediment Deposit Load Allocations for Ballona Creek Wetlands (Table 17, page 68) are not feasible to implement on Ballona Wetlands given the need to maintain existing infrastructure and flood control on the site, and to redeposit legacy sediment on-site in the course of wetland restoration. It appears that the TMDL analysis assumes that all legacy sediments in Areas A, B, and C can be removed and wetland habitats restored (compare Table 14, page 60 with Table 17, page 68). This is not the case. If Area A is restored to a full tidal inundation regime with a connection to Ballona Creek (through either a breach or removal of the north levee), a major action necessary to restoring the Ballona Creek Wetlands to an ecologically functioning wetland, flood control must still be maintained along the northern and western boundaries of Area A to protect existing roads, businesses and other facilities. The area needing to be maintained along the boundary of Area A for flood control would preclude excavating legacy soils in this area, and in fact may require adding soils to provide sufficient embankment height to maintain flood protection. In Area B there are roads and other infrastructure that would preclude excavating legacy sediment in these areas as well. In fact, much of the legacy sediment currently located in Area B is associated with infrastructure that is not planned to be moved or removed. Area C is currently envisioned as an excavated soil deposition site for the proposed restoration where uplands would be restored, and excavation of legacy sediments is not economically practical. The Legacy Sediment Deposit Load Allocations for Ballona Creek Wetlands are not achievable, and appear to prohibit implementation of the current design alternatives for the Ballona Wetlands Restoration Program, due to these constraints on removing legacy sediments in areas needed for public services or protection, and for on-site deposition of sediment removed to create new wetlands. Based on preliminary studies, the Department suggests that excavation of approximately 2.0 million cubic yards of legacy sediment from the site in general is reasonable, would meet water quality standards (i.e. restore the Ballona Creek Wetlands to an ecologically functioning wetland), and is consistent with the most recent restoration project proposed for Ballona Wetlands. **Comment 3**

4. Legacy Sediment Deposit Load Allocations for Ballona Creek Wetlands (Second Concern: overestimates sediment quantities):

The document does not discuss the effect of climate change, particularly anticipated sea level rise in the future, and as a result overestimates the quantity of legacy sediment deposits that should be removed in order to meet water quality standards (i.e. restore the Ballona Creek Wetlands to an ecologically functioning wetland). One of the State requirements for the Department in planning a wetland restoration at Ballona Wetlands is factoring

in assumed sea level rise in the planning process. Current estimates indicate a potential rise in sea level of up to 55 inches by the year 2100. In the restoration planning process, significant transitional, and potentially upland, habitats need to be incorporated into the restoration design with the assumption that these areas will accommodate sea level rise in the future, and new salt marsh habitats will become established on these transitional or uplands habitats, as lower elevation tidal habitats transition to intertidal and subtidal. The need to plan for sea level rise means that less legacy sediment than proposed by the document should be removed from the Ballona Wetlands site because the elevations to support the different tidal habitats will shift upward in the future. The load allocation for legacy sediment should take this issue into account and reduce the amount of sediments that need to be removed to accommodate sea level rise. This need to plan for sea level rise becomes even more apparent considering that the current sediment load entering Ballona Creek Wetland from other parts of the Ballona Creek Watershed are believed to be lower than the natural conditions that existed before large-scale development activities. Because of anticipated climate change impacts, future hydrologic and tidal conditions will not be the same as past or current conditions at Ballona Wetlands. The EPA needs to consider near term and long-term environmental and climatic conditions, not past conditions, and revise downward the Legacy Sediment Load Allocations for Ballona Creek Wetlands.

Comment 4

5. Load and Wasteload Allocations for Invasive Exotic Species:

The document lists invasive exotic vegetation as another critical stressor requiring the establishment of TMDL load and waste load allocations. For the Ballona Wetlands the EPA lists these allocations as zero. The Department agrees that invasive exotic vegetation is a significant problem in the Ecological Reserve, and that control efforts would greatly benefit the Reserve. However, the Department strongly recommends that the EPA specifically list the invasive exotic species that need to be controlled, especially since the requirement is for zero tolerance. There are some exotic species, such as certain wide-spread non-native annual grasses, especially in transition and upland habitats, that may be impossible to eradicate. It is probably not worth the effort and cost to try and eradicate these naturalized species over the entire wetland. However, other non-natives that are more detrimental to wetland function can be controlled to improve wetland health. By listing the specific plant species to be controlled it removes the guesswork by the Reserve managers as to the work that needs to be done. In turn, the Department would be able to more effectively utilize its limited resources to maintain the restored wetlands by removing invasive exotic species that actually affect the wetland's ecological functions. The Department recommends that the EPA consult the recent baseline biological report produced by the Santa Monica Bay Restoration Commission (Ballona Wetlands Ecological Reserve Baseline Assessment Program: 2009-2010 Report, 2010, SMBRC) for a list of potential exotic plants needing eradication. You may also contact Karina Johnston at SMBRC (310-417-3093) to discuss which species are of greatest ecological concern on the

reserve. The Department also recommends that the load and waste load allocation for invasive exotic vegetation be 5% instead of zero. This is a more likely attainable standard, at least for smaller more wide-spread exotic plants, and still at a sufficiently low number to meet water quality standards (i.e. restore the Ballona Creek Wetlands to an ecologically functioning wetland).

Comment 5

It would work to the benefit of all agencies involved in the Ballona Wetlands restoration if EPA's TMDLs load allocations could be more closely coordinated with the design of the proposed restoration project. This may not be possible due to the difference in timing between EPA's need to establish TMDLs because of a court agreement, and the fact that the formal wetlands restoration program is just at the threshold of the public review process. Because of this unfortunate mismatch in timing, it is important that the EPA integrate sufficient flexibility into the load allocations of the TMDLs to give the final restoration plan the ability to comply with the EPAs' goals. This concludes the Department's comments on the EPA's *Total Maximum Daily Loads for the Ballona Creek Wetlands* document. If you have any questions regarding this letter, please contact David Lawhead at (858) 627-3997, or dlawhead@dfg.ca.gov. Thank you for the opportunity to comment on this document.

Sincerely,

Edmund Pert
Regional Manager
South Coast Region

cc: Terri Stewart, CDFG, San Diego
Rick Mayfield, CDFG, Santa Barbara
David Lawhead, CDFG, San Diego
Shelly Luce, Santa Monica Bay Restoration Commission
Mary Small, State Coastal Conservancy
Pamela Griggs, State Lands Commission

Response to Comments on the Total Maximum Daily Loads for
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RESPONSE TO COMMENTS

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2. California Department of Fish and Game

Response to Comment 1

USEPA agrees with the commenter. The figures are corrected, and where applicable, language is included to clarify the freshwater marsh's ownership and management.

Response to Comment 2

USEPA evaluated the concerns raised by the commenter. USEPA has made modifications to address assumptions and uncertainties associated with the use of the historical reference maps. USEPA accounted for the inherent assumptions made in its calculations and uncertainties identified by calculating the mean variability of the historical habitat proportions for the eight southern California coastal wetlands and using the lower range of the 95% confidence interval as the minimum targeted acreages to achieve. USEPA believes this method adequately accounts for uncertainties and provides the habitat proportions necessary to support a functioning coastal wetland. See Section 4.2 of the TMDL for a detailed discussion.

Response to Comment 3

USEPA considered the commenter's concerns. The approximately 3.1 million cubic yards was calculated by comparing historical and current aerial photos and maps. This is a common technique and provides a reasonable best estimate of the sediment accretion. Although this is a common technique and provides a reasonable best estimate of the sediment accretion,

USEPA recognizes there are inherent assumptions and uncertainties with these estimates. (see Section 5.2.1 Historic Sources of the TMDL document). USEPA added language acknowledging the uncertainties associated with this current estimate. Furthermore, USEPA recommends specific error analyses of the sediment accretion volume estimates for Ballona Creek Wetlands. This can be completed after additional monitoring in Ballona Creek Wetlands is conducted to evaluate the inherent assumptions and address certain variables (i.e., compaction and settlement). USEPA encourages a detailed study that evaluates the relationship between wetland habitat function and excess sediment removal.

Response to Comment 4

USEPA acknowledges the potential impact of sea level rise in the future (See Section 8 of the TMDL). USEPA based the sediment load allocations best available data and estimates. Please see response to Comment 3 above.

Response to Comment 5

USEPA agrees that it would be helpful to direct this TMDL at the exotic species that are considered highly invasive and pose a significant problem to achieving functioning wetland habitats, and to identify these species. Consequently, USEPA has modified the TMDL to reference the list of exotic species on the California Noxious Weed List and the California Invasive Plant Council's Invasive Plant Inventory. Please see Response to Santa Monica Bay Restoration Commission's Comment 2.

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

CURTIS L. FOSSUM, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service from TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1880**
Contact FAX: **(916) 574-1885**

January 27, 2012

File Ref: Ballona Wetlands

Sent via e-mail to: lin.cindy@epa.gov

Ms. Cindy Lin
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Subject: Comments on proposed draft Ballona Creek Wetlands Total Maximum Daily Loads (TMDLs) for Sediment and Invasive Exotic Vegetation

Dear Ms. Lin:

The California State Lands Commission (CSLC) has reviewed the proposed TMDL and offers the following comments for your consideration.

The CSLC holds fee title to two distinct parcels in the Ballona area: the Freshwater Marsh (approximately 36 acres) and the adjacent Expanded Wetlands Parcel (approximately 24 acres). Title to these parcels was transferred from Playa Capital Company LLC to the CSLC in 2004. These parcels are in what is commonly referred to as Area B. The CSLC owns no property in Areas A or C and any responsibility assigned to the CSLC for these areas should be eliminated.

The Freshwater Marsh is operated and maintained by the Ballona Wetlands Conservancy; it is not part of the Ballona Wetlands Ecological Reserve. The TMDL is not intended to cover the Freshwater Marsh; however, it is inconsistent in how it depicts the Freshwater Marsh (e.g. Figures 1 and 7). It should be made clear that the Freshwater Marsh is not included in the proposed TMDL area.

The Expanded Wetlands parcel is under lease from the CSLC to the California Department of Fish and Game (CDFG) and is included in the Ballona Wetlands Ecological Reserve. The Expanded Wetlands Parcel has extremely limited, if any, hydrologic connection to Ballona Creek.

As the TMDL recognizes, the Ballona wetlands are the current subject of restoration planning efforts by the CDFG, the Coastal Conservancy, the Santa Monica Bay Restoration Commission, and others. The timing for adopting the TMDL while this planning effort is still underway is unfortunate. The agencies on the planning team must have adequate flexibility to develop a sustainable restoration project. CSLC staff strongly recommends that adoption of the TMDL be postponed or, if adopted, that it be amended, if necessary, to allow the restoration to occur, once the planning and environmental review processes are completed.

To the limited, if any, extent that the Expanded Wetlands Parcel receives continuing discharges of waterborne pollutants made by point and non-point source discharges, it should be recognized that the CSLC does not have the legal authority to regulate these discharges. These discharges are regulated by other state or federal agencies.

To the limited, if any, extent that the Expanded Wetlands Parcel contains legacy sediments, the CSLC does not have the necessary funding to undertake remedial actions that may be assigned to the CSLC in a future implementation plan. The CSLC's budget is controlled by the Legislature and Governor, and the CSLC retains management discretion over actions on property under its jurisdiction.

Specific comments on the TMDL:

Page 12, Section 2.2.2 Area B – This discussion should identify and delineate the 24-acre Expanded Wetland Parcel as owned by CSLC and managed by the CDFG as part of the Ecological Reserve.

Page 18 – The end of the 2nd paragraph states that the State of California purchased 483 acres of Ballona Wetland. This should be described more specifically that differentiates the acreages of ownership between CDFG and CSLC.

Page 19, Figure 5 – This map identifies the Freshwater Marsh and Expanded Wetland Parcel and "Not a Part". What does Not a Part mean? These two parcels were acquired by CSLC in 2004.

Page 68, Table 17 – This table has CSLC as a responsible agency for wetlands areas A, B, and C. As stated above, CSLC ownership includes only the Expanded Wetland Parcel adjacent to the Freshwater Marsh in Wetland Area B.

Page 69, Section 7.3 – CSLC staff agrees with CDFG comments (Comment #5 in the CDFG letter dated January 26, 2012) on the zero loading capacity for exotic species. CDFG recommends the loading capacity to be at 5% rather than zero. CSLC staff recommends that the loading capacity be determined more specifically by the various habitat types of Ballona Wetlands. Even 5% may be difficult to reach in some habitat types.

The TMDL does not take the effects of climate change and projected seal level rise into account in its determinations of legacy sediments that should be removed. Please modify the TMDL to take the effects of climate change into account.

Thank you for the opportunity to comment on this TMDL. If you have questions or need additional information, please contact Eric Gillies, Asst. Chief, Division of Environmental Planning And Management via email at Eric.Gillies@slc.ca.gov or at (916) 574-1897, or Pamela Griggs, Senior Staff Counsel via e-mail at Pamela.Griggs@slc.ca.gov or at (916) 574-1854

Sincerely,

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

3. California State Lands Commission

Response to Comment 1

USEPA made the appropriate changes to the maps.

Response to Comment 2

USEPA is establishing these TMDLs now to meet the March 24, 2012 deadline under the Heal The Bay consent decree. The TMDLs allow for some flexibility in implementation. See responses to Comment 2 and 3 from the California Department of Fish and Game.

Response to Comment 3

USEPA made the recommended corrections in first two specific comments under Comments 3.

USEPA updated the legend in Figure 5 of the Draft TMDL to reflect the current acquisition status.

Based on clarification from the commenter, USEPA removed the State Lands Commission as a Cooperative Party from Areas A and C. The State Lands Commission transferred the

management and operation responsibility of Area As and C to CDFG, and currently only has ownership and management responsibility over Area B.

Response to Comment 4

Please see our response to CA Department of Fish and Game's Comment 5.

Response to Comment 5

USEPA calculated the legacy sediment load based on the best available data and information. Specific data on sea level rise for Ballona Creek Wetlands was not available to adequately incorporate in this TMDL. However, USEPA acknowledges the potential for sea level rise in California and recommends efforts towards collecting more specific information to account for this potential during the implementation of this TMDL.

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

GAIL FARBER, Director

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
http://dpw.lacounty.gov

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: WM-9

January 26, 2012

Ms. Cindy Lin
U.S. Environmental Protection
Agency – Region IX
Southern California Field Office (WTR-2)
600 Wilshire Boulevard, Suite 1460
Los Angeles, CA 90017

Dear Ms. Lin:

COMMENT LETTER – BALLONA CREEK WETLANDS
TOTAL MAXIMUM DAILY LOADS

On behalf of the Los Angeles County Flood Control District, thank you for the opportunity to comment on the draft Ballona Creek Wetlands Total Maximum Daily Loads. Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

Gary Hildebrand

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

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Enc.

COMMENTS OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT ON THE BALLONA CREEK WETLANDS TOTAL MAXIMUM DAILY LOAD

Thank you for the opportunity to comment on the proposed Ballona Creek Wetlands Total Maximum Daily Load (TMDL). We appreciate USEPA staff's efforts to involve stakeholders during the TMDL development process by holding public meetings and workshops. As indicated during those meetings, the Los Angeles County Flood Control District (LACFCD) is supportive of the wetland restoration effort and intends to continue to be a collaborative entity as the process progresses. The LACFCD is very concerned, however, about the use of the TMDL process to compel wetland restoration, and about the role of the LACFCD in the TMDL. Our specific comments are as follows:

1. **The draft TMDL exceeds the scope of the original 1996 303(d) listing.**

   The draft TMDL addresses a roughly 600-acre area divided into three distinct areas, namely Areas A, B, and C. However, as indicated on page 18 of the TMDL, at the time when the Ballona Creek Wetland was put on the 303(d) list in 1996, the wetland area covered only the area currently designated as "Area B". Prior to the State of California's acquisition of "Area A" and "Area C" in 2004, they were under private ownership and were not identified as wetlands. The inclusion of Area A and Area C as part of the wetland occurred only after the State bought those lands in 2004, at which time the State designated them as a State Ecological Reserve.

   The LACFCD believes that a TMDL is not the appropriate mechanism to restore the Ballona Creek Wetland as TMDLs were never intended to be used for addressing the deposit of sediment prior to the adoption of the Clean Water Act and impairments associated with those deposits. As described in our previous letter, the Ballona Wetland impairment is a result of a historical change in the landscape within the wetland and requires a different mechanism other than a TMDL to address it. If USEPA is nevertheless going to go forward and adopt a TMDL, then the TMDL should only be limited to the area that was formally included as part of the 303(d) list in 1996, or Area B. The remaining areas of the wetland (Areas A and C) should be restored through the State's ongoing Ballona Wetlands Restoration Project.

2. **Identifying the flood control levee as a stressor only is inappropriate.**

   Section 3.2 of the draft TMDL identifies the flood control levee as a stressor because the levee serves as a barrier which blocks freshwater flows and natural tidal flows from flowing into and out of the wetland area. While the flood control levee serves as a flow barrier because its function is to protect the adjacent flood plain areas from flooding, to portray it merely as a stressor is not balanced and would seem to set a potentially troubling precedent for flood control facilities throughout the country. We recommend that Section 3.2 be revised to include a more balanced discussion regarding the flood control levee by acknowledging its crucial function as a public safety infrastructure.

3. **The TMDL should not identify the LACFCD as a party responsible for sediment removal.**

The draft TMDL identifies the construction of the flood control channel as one of the contributors of the legacy sediment deposited in the proposed wetland area. However, no evidence has been provided to substantiate this claim or to describe how much sediment (if any) was deposited as result of the channel's construction.

Furthermore, as previously indicated during public meetings, while the LACFCD is responsible for operating and maintaining the flood control channel today, the channel was constructed by the U.S. Army Corps of Engineers in the 1930s. As the current owner and operator of the flood control channel, the LACFCD may have a role in activities directly related to the flood control levee, such as approving any breach to the levee that might be necessary to restore water flow into the wetland area. There is no basis, however, to suggest that the LACFCD is responsible for the removal of any sediment because the LACFCD did not deposit the sediment. Therefore, the LACFCD respectfully requests that it be removed from responsible jurisdiction list for legacy sediment in Section 7.2 of the draft TMDL.

For accuracy, we also request the following specific modifications. Paragraph three on page ten should be modified as follows:

> "In 1937, the Army Corps of Engineers (ACOE) ~~and the Los Angeles County Flood Control District~~ constructed the Ballona Creek flood control channel that diverted water from the creek straight to the Santa Monica Bay, ..."

Paragraph three on page 59 should be revised as follows:

> "The operation and maintenance of the flood control channel was subsequently transferred to the LACFCD. ~~Currently, t~~The LACFCD is responsible for providing regional flood protection ~~and~~ through the maintenance and operation of ~~the channel~~ flood control facilities under ~~within~~ its jurisdiction~~al area,~~. However, the LACFCD is not responsible for maintaining areas outside of its jurisdiction such as the wetland areas. ~~which includes the areas surrounding the proposed wetland.~~"

4. **Habitat-based targets and sediment-based load allocations lack sufficient linkage**

The draft TMDL sets sediment-based load allocations which do not necessarily lead to achieving the habitat-based targets. In theory, the TMDL's allocations can be met through sediment removal without a functioning wetland being created. This regulatory anomaly is evidence that the TMDL process is being misused here.

5. **The TMDL targets should reflect the constraints of existing conditions.**

The TMDL's habitat targets (i.e., habitat types and their acreages) are set based on historic pre-development wetland habitat condition, without considering whether or not they are attainable. This approach fails to consider existing constraints such as the need to provide flood protection.

Instead, the TMDL targets should be set to an optimal habitat condition that could be reasonably expected under existing constraints. This is the premise of the ongoing Ballona Wetland Restoration effort in which the LACFCD is a participant. As part of that effort, various alternatives have been evaluated that would attain an optimal functioning wetland while meeting flood protection needs. The TMDL's target should be in line with this ongoing restoration effort as opposed to requiring the ongoing restoration effort to come up with a plan that can achieve the pre-development habitat target, which may not be attainable.

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

4. LA County Flood Control District

Response to Comment 1

Under CWA Section 303(d), USEPA must consider the full extent to the impairments to the waterbody using currently available information. Therefore, USEPA is establishing these TMDLs for all waters within Areas A, B and C.

In 1996, the State identified Ballona Wetlands as impaired for reduced tidal flushing, habitat alteration, exotic species and hydromodification. The 1996 State Water Quality Assessment Report and the 1998 303(d) list identified 86 acres as impaired. According to the State, the 86 acres was determined by estimating the area covered through best professional judgement in the 1996; subsequently, when the State incorporated more sophisticated GIS mapping capability, the area identified as impaired increased to 289 acres based on the map coverage, as reflected in the State's 2002 303(d) list. (Pers. Comm. Nancy Kapella, State Water Resources Control Board, February 10, 2012)

For this TMDL, USEPA determined that the impaired area to be 626 acres, which is the acreage of the Ballona Wetlands Ecological Reserve, minus major structures. In response to this and other comments, USEPA re-evaluated the wetland areas and found that approximately 85 acres within the Reserve include roads, levees, parking lots and plant facilities. USEPA considered the current landscape of the wetland area and determined that these 85 acres will likely be minimally to moderately modified. USEPA subtracted these 85 acres from 626 acres total, which leaves approximately 541 acres of waters that can be addressed directly by sediment removal, restoration, best management practices or other

relevant activities. The precise boundaries of the impaired waters within Areas A, B and C have not been delineated by USEPA.

Furthermore, USEPA determined that the area identified as the Ecological Reserve is the last remaining undeveloped area that was part of a larger coastal tidal marsh wetland. Ballona Wetlands historically covered a larger area. To ensure that the beneficial uses of the remaining wetland areas are protected, it is necessary to address all the impaired areas of the wetland and provide for restoration.

Finally, USEPA is not determining whether there are mechanisms other than the TMDL process which might be more appropriate for restoring the Ballona Creek Wetlands. USEPA is aware of the State's current restoration planning process, and has attempted to avoid unnecessary conflicts with this process in developing the TMDLs, but the requirement to establish TMDLs for waters on the State's 303(d) list is a separate obligation.

Response to Comment 2

This TMDL evaluated all potential stressors that contribute to the listed impairments. In USEPA's assessment, the levee is a critical stressor in impairing the wetland functions. USEPA recognizes that the levee serves as an important flood control function, however, based on USEPA's discussion with the LACFCD, DFG and the SMBRC, USEPA understands that the levee can be physically modified in such a manner that it could support flood control management of the area and also support wetland functions (Personal Communication, Angela George and Shelley Luce, August 30, 2011; and Dave Lawhead, February 16, 2012).

Response to Comment 3

USEPA has clarified its rationale for identifying cooperative parties for sediment removal. The TMDL lists the entities that are either currently owning or operating portions of the Ballona Creek Wetlands, or owning or operating facilities in proximity to the Wetlands that are expected to have an impact on the management of legacy sediment in the Wetlands. These TMDLs provide a joint load allocation to all of the cooperative parties and does not specify the specific amount of sediment to be removed by each party. Furthermore, the TMDL includes flexibility by providing an Alternative Load Allocation in the form elevation and habitat targets.

USEPA has identified the LACFCD as a relevant party because the LACFCD currently owns and manages the Ballona Creek levees and conducts some activities affecting flows through or out of Ballona Creek. The levees and Ballona Creek bisect the Ballona Creek Wetlands and play an important role in the impairment or attainment of the beneficial uses in the Ballona Creek Wetlands. USEPA understands that the LACFCD is participating with the State's wetland restoration effort and expects that activities planned between the various agencies will support this TMDL. Thus, LACFCD's role is critical to the protection of the beneficial uses in the Ballona Creek Wetlands.

USEPA has corrected the TMDL, as requested, to eliminate the reference to LACFCD as one of the parties that constructed the flood control channel. USEPA is not making a determination as to whether (or not) the LACFCD is responsible for any historic sediment discharges.

USEPA has also made applicable text changes to the TMDL.

Response to Comment 4

This TMDL sets alternative sediment-based load allocations and elevation and habitat targets designed to achieve a functioning wetland's complex ecosystem. The TMDL linkage analysis describes the link between the loss of habitat and the excess sediment deposited in the wetland area. Like many dynamic ecological systems and their nutrient budget (e.g., wetlands, lakes,etc.), the interplay between the response and causal factors can shift. For example, a nutrient enriched lake with high concentrations of TN or TP may be best measured and monitored by looking at secondary indicators, such as DO, chlorphyll a, etc. For this TMDL, the legacy sediment has a clear impact on habitat and must be addressed to ensure that wetland functions are restored. Of course, it is possible to meet the legacy sediment removal goals without achieving the habitat and elevation acreage targets, but USEPA expects that the implementation plan will be developed to meet these targets, and ensure that wetland functions are returned. For this reason, this TMDL provides an alternative approach to achieve the load allocations.

Response to Comment 5

During the development of this TMDL, USEPA consulted with SMBRC and CA DFG to ensure that the habitat types and elevation targets are appropriate for Ballona Creek Wetlands. Based on information provided by the resource agencies, USEPA understands there are inherent uncertainties with wetland restoration efforts, and as such, has considered the current land uses in the Ballona Creek Wetland (i.e., roads, parking lots) and subtracted acreage associated with these unvegetated areas from the total acreage (See Section 4.3). In addition, USEPA calculated the 95% confidence interval of the mean habitat acreage observed at eight Southern California wetlands to reflect the natural variability in these coastal wetlands. These considerations are included to account for the uncertainties related to specific habitat acres given the modified environment surrounding Ballona Creek Wetlands currently. USEPA discussed this approach with the resource agencies working on the larger restoration efforts. Given this additional analysis, USEPA strongly believes these are attainable targets and allocations.

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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GAIL FARBER, Director

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
http://dpw.lacounty.gov

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: WM-9

January 26, 2012

Ms. Cindy Lin
U.S. Environmental Protection
Agency – Region IX
Southern California Field Office (WTR-2)
600 Wilshire Boulevard, Suite 1460
Los Angeles, CA 90017

Dear Ms. Lin:

COMMENT LETTER – BALLONA CREEK WETLANDS
TOTAL MAXIMUM DAILY LOADS

On behalf of the County of Los Angeles, thank you for the opportunity to comment on the draft Ballona Creek Wetlands Total Maximum Daily Loads. Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

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Enc.

cc: Chief Executive Office (Dorothea Park), County Counsel (Judith Fries)

COMMENTS OF THE COUNTY OF LOS ANGELES ON THE BALLONA CREEK WETLANDS TOTAL MAXIMUM DAILY LOAD

1. Under the Consent Decree, USEPA is Required to Develop a TMDL Only for Area B of the Wetland

The County understands that the United States Environmental Protection Agency (USEPA) believes that it is compelled by the 1999 Consent Decree to develop the subject TMDL. Under the Consent Decree, the USEPA is required to complete TMDLs for waterbodies that were included in the 303(d) list prior to 1999. At the time when the Ballona Creek Wetland was listed in the 303(d) list in 1996, the wetland area covered only the area currently designated as "Area B". Prior to the State of California's acquisition of "Area A" and "Area C" in 2004, they were under private ownership and were not identified as wetlands. Until 2004, only the undeveloped Area B was identified as Ballona Creek Wetland (see page 18 of the draft TMDL), and the inclusion of Area A and Area C into the wetland came only after the State bought those lands in 2004.

The County believes that a TMDL is not the appropriate mechanism to restore the Ballona Creek Wetland as TMDLs were never intended to be used for addressing the deposit of sediment prior to the adoption of the Clean Water Act and impairments associated with those deposits. The Ballona Wetland impairment is a result of a historical change in the landscape within the wetland and requires a different mechanism other than a TMDL to address it. If USEPA is nevertheless going to go forward and adopt a TMDL, then the TMDL should only be limited to the area that was formally included into the 303(d) list in 1996, or Area B. The remaining areas of the wetland (Areas A and C) should be restored through the State's ongoing Ballona Wetlands Restoration Project.

2. The County of Los Angeles Should Not Be Responsible for Sediment Deposited in Areas A and C

When the Marina del Rey Harbor was constructed in the 1960's, Areas A and C were privately owned. The identification of Areas A and C as wetlands occurred only after the State bought those lands in 2004, at which time the State designated them as a State Ecological Reserve. Had the State not bought those lands, they would have been developed for other purposes. For example, prior to the State's ownership of the wetland, Area A was planned to be developed into a 750-slip new boat marina.

It is our understanding that the State bought those lands knowing the existing condition of those lands (including the sediments historically placed in those areas) with the intent to protect those areas from development and convert them into a wetland through a State effort.

Accordingly, the State should be the sole responsible party in removing sediments from the wetlands. The County should be removed from the responsible parties list.

3. **The List of Responsible Parties Should Include All Parties Involved Historically or Otherwise the County Should be Removed from the List**

For the reasons set forth in Section 2 above, the County does not believe that parties who deposited sediments on the property when it was privately owned should be listed as responsible parties. If USEPA nevertheless goes forward and lists such parties, then Table 17 of the draft TMDL should also list the railroad and oil companies as well as the past owners that are referenced in the TMDL's historical section.

As described on pages 10 and 17 of the draft TMDL, during the 19th century, railroads were constructed through the wetlands resulting in fragmentation of the wetland due to the construction of railroad levees. During the early 20th century, oil exploration in the area led to the construction of oil platforms and the placement of fill material on the marsh surface to keep the oil production facilities above high tide levels. These activities contributed to the historical alteration of the wetland, and the entities that conducted these activities should be included on the list of responsible parties for the removal of legacy sediment in the proposed wetland areas.

If USEPA is going to list past owners of the property, this list should also include the Howard Hughes Corporation and its successor, Summa Corporation, and McGuire Thomas-Playa Vista.

Response to Comments on the Total Maximum Daily Loads
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RESPONSE TO COMMENTS

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5. County of Los Angeles

Response to Comment 1

See response to Los Angeles County Flood Control District Comment 1.

Response to Comment 2

USEPA has included the County of Los Angeles as a Cooperative Party for the Load Allocation for legacy sediment because the County is a party to the current restoration planning with the State. The County also played a role in the past development activities which impacted the Ballona Creek Wetlands. Although the State is working with multiple parties to restore the impaired Ballona Creek Wetlands, the State is not the only party responsible for all activities affecting the Wetlands and adjacent waterbodies.

Response to Comment 3

The TMDL lists as cooperative parties, those entities that either currently own or operate portions of the Ballona Creek Wetlands, or own or operate facilities in proximity to the Wetlands that are expected to have an impact on the management of legacy sediment in the Wetlands.

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission ✐ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✐ 213/576-6646 fax ✐ www.smbrc.ca.gov

January 26, 2012

Dr. Cindy Lin (lin.cindy@epa.gov)
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd. Suite 1460
Los Angeles, CA 90017

RE: DRAFT BALLONA CREEK WETLANDS TOTAL MAXIMUM DAILY LOADS FOR SEDIMENT AND INVASIVE EXOTIC VEGETATION.

Dear Dr. Lin,

Thank you for the opportunity to comment on the draft Total Maximum Daily Load for sediment and invasive exotic vegetation at Ballona Wetlands. The Ballona Wetlands area is a critical natural resource in urbanized west Los Angeles County, surrounded by more than ten million residents and associated urban development. It has suffered enormous degradation due to channelization, fill and other impacts. We support the draft TMDL and believe it will address impairments and achieve the beneficial uses of the Ballona Wetlands.

The Santa Monica Bay Restoration Commission is a state commission and a National Estuary Program of the USEPA under Clean Water Act Section 320. We work to restore and enhance Santa Monica Bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the bay's benefits and values. Repairing habitat and restoring beneficial uses at the Ballona Wetlands are high priorities in our Bay Restoration Plan, which was updated and adopted by our Governing Board in 2008. We are partnering with state agencies, local NGOs, schools, and businesses to educate the public about the wetlands and to plan and implement a science-based restoration project for Ballona Wetlands.

The Ballona Wetlands restoration planning effort, led by the Department of Fish and Game and the State Coastal Conservancy, has been in progress since 2005. The planning effort is a science-based approach and the primary goal is to "restore, enhance, and create estuarine habitat and processes in the Ballona Ecosystem to support a natural range of habitat and functions, especially as related to estuarine dependent plants and animals."[1] The restoration project is being planned to achieve beneficial uses at the site to the maximum extent possible within the constraints of the substantial urban development and infrastructure that surround it. An important component of restoring

[1] Ballona Wetlands Restoration Plan: Goals and Objectives. July 2006 viewed 1/25/12 at www.ballonarestoration.org.

santa monica bay restoration commission ✔ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✔ 213/576-6646 fax ✔ www.smbrc.ca.gov

habitat at Ballona Wetlands will be removal of sediment and levees that impair hydrologic function at the site and is compatible with the general intent of the draft TMDL.

While we strongly support the overall approach in the draft TMDL, we have two recommendations provided below.

Recommendations:

1. *Habitat acreage targets should be based on the lowest historic proportions of each habitat type within the southern California wetlands considered in USEPA's analysis, rather than the historic averages across wetlands or the historic proportions at Ballona.*

   The habitat acreage targets in the draft TMDL were based on proportions of different habitat types shown in historic maps of the Ballona wetlands, or on historic averages for southern California wetlands (the lower of the two numbers). We agree with the approach of using historical wetland conditions to select targets, but we suggest the targets should be based on the lowest proportion of a given habitat from the historical condition of all the southern California wetlands considered in the analysis. This gives a broader range of habitat sizes and allows greater flexibility in designing a restored wetland, while requiring at least as much function as the most limited historical wetlands.

   The analysis of habitat proportions in the draft TMDL does not include the historical surrounding environs of the wetlands. The wetlands were likely surrounded by buffer and upland habitat. While we cannot measure this precisely today, it is likely that it would lower the proportions of marsh habitats, if we could assess the historic system as a whole. Therefore we suggest using the lowest proportion of each wetland habitat type available in the historic data.

   According to the T-sheet atlas, the historic minimum proportions of each habitat type in southern California wetlands are: Intertidal/mudflat: 10%, salt pan: 0%, subtidal: 0%, and vegetated marsh: 55%. We suggest these should be used as minimum targets for the TMDL.

santa monica bay restoration commission ✔ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✔ 213/576-6646 fax ✔ www.smbrc.ca.gov

Re-calculating Table 10 in the draft TMDL to reflect these habitat proportions would result in the following numeric targets for Ballona Wetlands:

Habitat	Lowest so-Cal historic %	Corresponding BWER Acres
Intertidal/Mudflat	10	63
Salt Pan	0	N/A
Subtidal	0	N/A
Vegetated Marsh	55	344
Total	**65**	**407**

2. *Numeric targets for invasive exotic species should be zero where the ecological impacts are significant, but should be 10% cover for less ecologically-damaging exotic species.*

   Invasive exotic vegetation that is highly invasive and habitat altering must have a numeric target of zero. Examples of this type of invasive vegetation on Ballona Wetlands include pampas grass *(Cortaderia selloana),* giant reed *(Arundo donax),* ice plant *(Carpobrotus edulis)*, and others. Some exotic plants are either less invasive, cause less damage to habitat, or are performing similar ecological functions as a native plant. In some cases, frequent removal of these plants may disturb habitat unnecessarily. Invasive exotic plants in this category should have a numeric target of 10%, so that they must be controlled but not necessarily eradicated if site managers find it is not beneficial to do so.

We recommend that invasive exotic vegetation have a numeric target of zero percent cover if

- it is listed on the California State Noxious Weed List[2]; and/or
- it is rated "High" or "Moderate" on the California Invasive Plant Council's Invasive Plant Inventory[3] or if the Inventory notes show that "impacts can be higher locally"; and/or
- it is determined by the state Department of Fish and Game to pose a significant threat to the ecosystem health and beneficial uses at Ballona Wetlands.

Other invasive exotic vegetation that does not meet these criteria could have a numeric target of 10% cover.

[2] California State-listed Noxious Weeds. US Department of Agriculture, Natural Resources Conservation Service. Viewed 1/25/2012 at http://plants.usda.gov/java/noxious?rptType=State&statefips=06.
[3] California Invasive Plant Inventory Database. California Invasive Plant Council. Viewed 1/26/2012. http://www.cal-ipc.org/ip/inventory/weedlist.php.

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission ✔ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✔ 213/576-6646 fax ✔ www.smbrc.ca.gov

In addition to the recommendations above, we have one further comment on the TMDL related to climate change. The science-based planning process for the Ballona Wetlands restoration project considers climate change and predicts that future habitat proportions may alter over the next 100 years. Specifically, sea level rise may alter the relative elevations and therefore shift marsh and transition habitats to mudflat or intertidal habitats. The restoration is being designed to accommodate these changes but cannot eliminate them. The TMDL could contain some language that reflects an understanding that eventual changes may occur in the habitat proportions.

Thank you for the opportunity to comment on the Draft Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation. Please feel free to contact Dr. Shelley Luce (sluce@santamonicabay.ort) or Karina Johnston (kjohnston@santamonicabay.org) to discuss our comments further.

Sincerely,

Shelley Luce, D.Env
Executive Director
Santa Monica Bay Restoration Commission

Karina Johnston, M.S.
Restoration Ecologist and Project Manager
Santa Monica Bay Restoration Commission

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

6. Santa Monica Bay Restoration Commission

Response to Comment 1

USEPA understands there are inherent uncertainties when restoring wetlands. As such, USEPA has included a percentage minimum based on the standard deviation of all historical habitat averages in historical southern California. USEPA is concerned with the method proposed by SMBRC because it does not set out a minimum habitat target for salt pan and subtidal, both of which are critical habitats in a coastal tidal wetland. Furthermore, USEPA did not set limits or maximums on upland or transitional habitat acreages because of the recognition that a functioning wetland includes all habitat types, including upland and transitional zones. This TMDL was charged to set targets for achieving a functioning wetland. A functioning wetland must include a diversity of habitat types observed in wetlands representative of southern CA coastal tidal wetland regions.

Response to Comment 2

USEPA agrees that it would be helpful to direct this TMDL at the exotic species that are considered highly invasive and pose a significant problem to achieving functioning wetland habitats, and to identify these species. Consequently, USEPA has modified the TMDL to reference the list of exotic species on the California Noxious Weed List and the California Invasive Plant Council's Invasive Plant Inventory.

Response to Comment 3

To accommodate for the uncertainties linked to climate change, USEPA is including a minimum percentage for all the identified habitat targets. USEPA further points out that although USEPA is establishing this TMDL, USEPA does not implement the TMDL. The State develops the implementation plan and can do so with various regulatory tools. If additional data and information at a later date suggest that the numeric targets and allocations need to be modified, the State has that authority (State Water Code). Consequently, USEPA establishes this TMDL based on the best available data and information today, and recognizes that additional modifications could be made if the State deems it necessary to do so in the future.

Friends of Ballona Wetlands

www.ballonafriends.org

January 26, 2012

Cindy Lin (WTR-2) VIA EMAIL
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Dear Ms. Lin,

Re: Comments on Draft TMDLs for the Ballona Creek Wetlands

On behalf of the Friends of Ballona Wetlands we are pleased to have the opportunity for commenting on the EPA's proposed Total Maximum Daily Loads for sediment and exotic vegetation for the Ballona Creek Wetlands. These comments support many of the constructive remarks made by agency staff and our representative (Dr. Edith Read) who attended the public meeting held on January 9, 2012. Friends of Ballona Wetlands (www.ballonafriends.org) is a non-profit 501(c)(3) membership organization with more than 7,000 individuals participating in our education and restoration programs each year. We represent the single largest group of stakeholders participating in the Coastal Conservancy's Ballona Wetlands Restoration Project. FBW has been dedicated to protecting and restoring the Ballona Wetlands for over 30 years with the help of more than 75,000 volunteers, and was instrumental in protecting the Ballona Wetlands from development through designation of the wetlands as a State Ecological Reserve.

1. Some of the figures in the document are outdated and incorrect.

We realize some figures were taken from documents not authored by the EPA, but promulgation of these errors could confuse readers who are unfamiliar with the history or geography of the area. The Ballona Freshwater Wetlands System is <u>not</u> part of the Ballona Wetlands Ecological Reserve and this should be made clear in text that discusses the constructed freshwater wetlands system. The photograph on the cover of the Draft TMDL document is of the Riparian Corridor portion of the Ballona Freshwater Wetlands System, which is not part of the Ecological Reserve or the Ballona Creek Wetlands. The correct boundaries of the Ballona Wetlands Ecological Reserve, excluding the Freshwater Marsh, are shown in Figure 13. Incorrect boundaries are shown in Figures 1, 2, and 7. The land ownership map in Figure 5 is outdated – the Freshwater Marsh and adjacent "Expanded Wetlands Parcel" are now both owned by the State and managed by the California State Lands Commission.

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P.O. Box 5159, Playa del Rey, CA 90296
phone: 310.306.5994 email: info@ballonafriends.org

2. The legacy sediment TMDL should consist only of the elevation ranges specified in Table 18, compatible with restoration of the Ballona ecosystem.

The EPA is proposing two alternative TMDLs for legacy sediment, i.e., sediment such as dredge spoils dumped historically in Areas A, B, and C. In the first alternative, the TMDLs for legacy sediment would be set at zero for Areas A, B, and C, which means that all of the estimated volumes of legacy sediment deposits in each area must be removed, a total volume estimated at 3.1 million cubic yards. We believe this standard is potentially incompatible with future restoration, since a sizeable portion of this sediment may be reworked and used (if not contaminated) to create uplands, berms, and other features, thus avoiding costly import of material. As an alternative, the EPA proposes that responsible jurisdictions may use elevation ranges and habitat acreages in the restored wetlands for TMDL compliance, with EPA approval. We believe elevation ranges should be used rather than habitat acreages. The habitat acreages stated in Table 18 are based on the lower end of a historic range, based on analysis of survey maps of tidal marshes in southern California from the 1800s and consideration that only 600 acres of the Ballona Wetlands remain out of an estimated 2,000 acres in 1870. These estimated historic values may not be achievable with the current condition of the watershed and are likely to severely restrict restoration planning. Setting fixed numbers for habitat acreages is incompatible with a dynamic marsh/upland ecosystem. In addition, Ballona was already heavily impacted by grazing, drains, and cultivation by the 1800s, and therefore the 1800s cannot be used as a reference point. Acreages are not appropriate metrics for ecosystem function.

3. The exotic vegetation TMDL of zero coverage of invasive exotic plant species is not attainable, and should be modified to refer only to highly invasive plant species with high potential for impairing ecosystem functions.

The Ballona Wetlands have been invaded by a wide range of exotic plant species. Several of them, especially annual grasses naturalized in the 1800s, are ubiquitous throughout California, and will be impossible to eradicate if uplands are included in the restoration plan. However, certain perennial species such as pampas grass (*Cortaderia selloana, C. jubata*), giant reed (*Arundo donax*), and castor bean (*Ricinis communis*) are well known for their ability to degrade habitat, and the TMDL should target such species. The TMDL could be re-stated as: “zero presence of highly invasive species with potential to degrade habitat”. Regarding implementation, we suggest the invasive plant lists of the California Invasive Plant Council (Cal-IPC) be used as a basis for prioritizing removal of exotic vegetation.

Sincerely,

Lisa Fimiani
Executive Director

Dr. Edith Read
Board Member

P.O. Box 5159, Playa del Rey, CA 90296
phone: 310.306.5994 email: info@ballonafriends.org

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for
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December 2, 2011 Public Notice
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RESPONSE TO COMMENTS

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7. Friends of Ballona

Response to Comment 1

USEPA has made the corrections to Figures 1, 2, 5 and 7 in the TMDL.

Response to Comment 2

USEPA believes that the specific habitat type acreages are appropriate metrics for ensuring wetland functions are achieved in Ballona Creek Wetlands. USEPA corrected the discussion of the percentages used from the historical T-sheet maps. In fact, the percentages are based on estimating the habitat proportions for the 626 acres bounded by present day Ballona Wetlands Ecological Reserve property. This same 626 acre boundary was overlaid onto the historical T-sheet map and the proportion of the habitat type in the same area was used. The habitat proportions are not based on the historical 2000 acres, as incorrectly suggested in the Draft TMDL. To clarify, this TMDL would not preclude the reuse of the removed legacy sediment. The TMDL assigns load allocations for removal of sediment currently covering lost habitat, but does not prevent holding of the removed sediment on site elsewhere for later use or for use to create necessary transitional and upland zones, where appropriate. To account for the current modified condition of the watershed and future climate change effects, USEPA calculates a 95% confidence interval for the applicable elevation habitat acreage targets.

Response to Comment 3

USEPA agrees that it would be helpful to direct this TMDL at the exotic species that are considered highly invasive and pose a significant problem to achieving functioning wetland habitats, and to identify these species. Consequently, USEPA has modified the TMDL to reference the list of exotic species on the California Noxious Weed List and the California Invasive Plant Council's Invasive Plant Inventory.

Comment Letter from Douglas Fay, douglaspfay@aol.com
Received Thursday, January 26, 2012 10:49PM via email

Dear US Environmental Protection Agency Representative Cindy Lin,

Thank you for the opportunity to comment on TMDL Draft language.

The limit for TMDLs should be 0 ppm for all elements above naturally occurring organic levels.
The TMDL for all man made pollutants, synthetic and organic, should be 0 ppm.
These levels apply to all areas of the Los Angeles basin including:

Aquifer injection/storage.

Ballona Wetlands:
It has been brought to my attention that Playa Vista is currently allowed to discharge runoff and storm water into the Ballona Wetlands with the agreement that they will be responsible to remove the pollutants from the wetlands on a predetermined schedule.
Absolutely no water that is not treated to tertiary levels or desalinated to human drinking level quality should be allowed to enter the Ballona Wetlands, either as by surface water or injected into to the aquifer. The natural value of the wetlands, especially for healthy reproduction, should not be compromised in any way by introduced waters that are not pristine with the exception of ocean waters originating from outside of the Ballona Creek Flood Control Channel.

Oxford Lagoon:
The US EPA should demand that all responsible parties, including the County of Los Angeles, stop utilizing the lagoon as a flood control channel and restore it to a functioning lagoon/wetland habitat. The restoration should include annexing the adjacent parking lot to the lagoon parcel for the purposes of restoration and education. The Oxford Lagoon is part of the historical Ballona Wetlands.

Del Rey Lagoon:
This lagoon should be where full tidal flow from the historical ocean entrance to the Ballona Wetlands is located for the wetlands south of the Ballona Creek flood control channel, with a 0 TMDL established.

Ballona Creek Flood Control Channel:
Until a 0 TMDL can be recorded for a period of 10 consecutive years in the Ballona Creek adjacent to the Ballona Wetlands, allowing water from the flood control channel into the wetlands should be prohibited. All upstream waters entering the flood control channel should be as pristine as natural occurring organic levels. This should be achieved by treating all urban storm and waste water within the municipalities that are responsible for creating them.

Marina Del Rey Harbor:
The water quality in the harbor continues to decline. The practice of cleaning bottoms in the water without catching 95% or more of the removed growth and paint in a vacuum system needs to be banned. Dumping of garbage and human waste continues. The County of Los Angeles, Santa Monica Bay Restoration Commission, Santa Monica Bay Restoration Foundation, Heal The Bay and Santa Monica Baykeeper are not doing enough to address the pollution problems in the harbor. Water and sediment testing should be conducted independently through the US EPA and a course of action implemented to remediate the neglect. Ducks that historically nested in the area that is now a harbor continue to do so, only to lose all of the young because they cannot access fresh water.

Venice Canals:
Full tidal flow needs to be restored to the canals.

Santa Monica Bay:

A 0 TMDL above natural occurring levels should be established. All industrial discharges should be banned including but not limited to:
Hyperion's sewage outfall. If all municipalities within the Bay's watershed treated their urban and waste water on site there would be no need to continue discharging into the Bay. The marine life in the Bay has declined significantly within the last century and will not recover without banning industrial waste discharges.
Chevron's outfall thermal pollution. I'm told nothing is discharged other than heated clean water. Water and sediment testing should be conducted independently by the US EPA to confirm a 0 TMDL. Regardless, industrial thermal pollution should be banned.
City of Redondo power station intake and outfalls.

All of the agencies and municipalities mentioned above and others, including the City of Los Angeles, are responsible, both morally and in some cases legally, to insure or provide healthy clean water and haven't for decades. I would hope that establishing TMDLs would be a tool used with honesty and integrity to fix a neglected and abused basic necessity of life: Clean water.

Respectfully submitted,

Douglas Fay
644 Ashland Ave. Apt. A
Santa Monica, CA 90405

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

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8. Douglas Fay

Response to Comment 1

These TMDLs address four listed impairments: hydromodification, reduced tidal flushing, habitat alteration and exotic species. [USEPA also previously approved TMDLs for arsenic and trash.] The Ballona Creek Wetlands have not been listed as impaired for other man made pollutants, and other pollutants are not within the scope of this TMDL.

Response to Comment 2

Storm water from Playa Vista flows into the Freshwater Marsh, and for storm events greater than the 1-year storm flow, water can flow from the Freshwater Marsh into the Ballona Creek Wetlands. USEPA evaluated the impact of the Freshwater Marsh on the Wetlands and determined that it did not contribute to the sediment-related impairments.

Response to Comment 3

These water bodies are not part of the Ballona Creek Wetlands. Therefore, these comments address matters beyond the scope of these TMDLs.

Response to Comment 4

The Ballona Creek Flood Control Channel is a separate water body which normally discharges downstream from the Ballona Creek Wetlands. Currently, flow from Ballona Creek to Ballona Creek Wetlands is limited. TMDLs bacteria, metals and trash have already been established for Ballona Creek and Estuary. Based on the information USEPA reviewed, it does not appear that flows from Ballona Creek are contributing to the impairments of the Ballona Creek Wetlands.

Response to Comment 5

These water bodies are not part of the Ballona Creek Wetlands. Therefore, these comments address matters beyond the scope of these TMDLs.

Comment Letter from Kathy Knight, Ballona Ecosystem Education Project

January 27, 2012

TO: USEPA Region IX
Alexis Strauss, Director - Water Division
Cindy Lin, Water Division

FROM: Kathy Knight
Ballona Ecosystem Education Project

These are our comments on the Ballona Creek and Ballona Wetlands TMDLs:

1) We support many of the concerns raised by Grassroots Coalition in their comments dated January 26, 2012.

2) How are you going to measure the TMDL's of the Playa Vista Urban Runoff Basin (aka Freshwater Marsh) in the wetlands? According the to Environmental Report for its construction it will be taking in street runoff from one of the largest developments in the history of Los Angeles. The street runoff will have toxics from the street, pet wastes, etc.
The EIR said the toxics will build up to the point that every 5-15 years it will have to be dredged to remove the toxic contamination build up. In our opinion, wetland land should not have been used for this purpose. The runoff basin should have at least been built east of Lincoln Blvd., leaving the land west of Lincoln cleaner.

3) The Ballona Wetlands should not be used to AGAIN clean up water polluted by urban development - by allowing Ballona Creek to go into it BEFORE the Creek has been fully cleaned up upstream at the SOURCE of pollution. Otherwise you are BRINGING more toxics into the wetlands. There is a lot of wildlife currently living in the wetlands, including endangered species, and they do not need this toxic water. The Green Solution program needs to be implemented first.

The Ballona Creek levees are treated as if an impairment to the wetlands functioning naturally. To the contrary, given the massive pollutant load in Ballona Creek and the multi-billion dollar cost of cleaning up this pollution, as detailed in the Green Solutions 2 study, which may not occur for decades, if ever, due to the need to acquire another 2000 more acres upstream of the Ballona Wetlands for conversion to stormwater treatment facilities, we believe the levees serve an important purpose and should be preserved.

4) Any restoration of this wetland should go slowly, without bulldozers, so that the wildlife there can survive. Even now we have observed that the wildlife has adjusted to non-native species and is using them to survive.

5) PLEASE work with the local citizens who saw many years ago the value of these eco-systems and dedicated their lives to saving them. For example, Patricia McPherson of Grassroots Coalition was a founding member of the Ballona Lagoon Marine Preserve and fought

very hard to get that land saved. Dr. Rimmon C. Fay submitted many valuable comments on the value of the saving the wetlands, and avoiding bringing contaminated water into it. Currently, his son, Doug Fay, is carrying on his work. There are many other local citizens that have dedicated their lives to saving these lands because of the valuable plants and animals they observed. Please work with them on your science advisory committees. The Friends of Ballona Wetlands worked hard from 1978 to the late 1980's to save the Ballona wetlands, but had to settle a lawsuit in the late 1980's. Other local citizens continued their fight day and night to save the rest of the wetlands. This type of dedication should be valued and respected, and used in any restoration plans for this area.

In conclusion, please go slowly, and do not do an industrial restoration of the wetlands. I will mail you a copy of our "7 Guiding Principles for Rejuvenation of the Ballona Wetlands", which is supported by the Ballona Wetlands Land Trust, Sierra Club, Ballona Institute, Ballona Ecosystem Education Project, Grassroots Coalition, and Wetlands Defense Fund.

Sincerely,

Kathy Knight, Board Secretary
Ballona Ecosystem Education Project
(310) 450-5961

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March 26, 2012

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9. Ballona Ecosystem Education Project

Response to Comment 1

To clarify, the Ballona Creek Wetlands is not being used to filter the upstream contaminants. The Freshwater Marsh operates under various permits which must meet various effluent limitations. Furthermore, the Freshwater Marsh does not flow into the wetlands except for storm events greater than the 1-yr storm flow. The TMDL is modified to clarify that in cases during wet weather for greater than the 1-year storm flow, the wasteload allocation is zero for sediment. These TMDLs do not address potential toxic contaminants.

Response to Comment 2

Several approved TMDLs, with implementation plans currently in effect, address the pollutants coming down Ballona Creek. These include the Ballona Creek metals TMDL, Ballona Creek and Estuary bacteria TMDL, Ballona Creek trash TMDL. These sediment and invasive exotic vegetation TMDLs address other critical impairments to the wetlands, and these are physical activities that have led to the reduction and modification of the Ballona Creek Wetlands.

Response to Comment 3

USEPA is not disputing the function of levees in Ballona Creek and the Wetlands. However, the current levees, as constructed, have a physical impact to the Wetlands. USEPA believes

the levees may be modified in a manner to achieve flood control and protection of beneficial uses for the Ballona Creek Wetland.

Response to Comment 4

USEPA is not specifying how the TMDLs will be implemented, but instead describes the nature and extent of the impairments and also to set appropriate water quality objectives and allocations to ensure protection of the beneficial uses. The State is responsible for implementing the TMDL.

Response to Comment 5

USEPA agrees and believes it is important to include the public in the process of addressing these impairments.

Response to Comment 6

These TMDLs only defines the nature and extent of the impairments, in addition to setting appropriate goals and allocations to meet the State's water quality objectives. The implementation schedule and details of the TMDLs are yet to be determined by the State and includes a public process component.

Comment Letter from John Davis
Received January 26, 2012 11:59AM

TO: USEPA Region IX
Alexis Strauss, Director- Water Division
Cindy Lin, Water Division

Comments: Ballona Wetlands TMDL

No TMDL standard can be established since the subject lands were never and are not currently submerged.

Comment 1

Attachment

Therefore U.S. EPA has no authority to establish such TMDL.

Furthermore the U.S. Army Corp of Engineers has undertaken an EIS process as of 2005 to evaluate water quality and the U.S. EPA must consider the Corp Jurisdiction but has not. Action of the EPA would clearly prejudice the Corp EIS process without the authority of Congress.

Comment 2

Lastly, U.S. Public Law 780 governs the project and U.S. EPA has ignored this federal jurisdiction. For these reasons I request the U.S. EPA CEASE consideration of this process.

`

Comment 3

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10. John Davis

Response to Comment 1

USEPA disagrees. USEPA reviewed the historical evidence and found that most of the area within the Ballona Creek Wetlands had been wetlands or open waters prior to the deposition of the legacy sediments and other human manipulation. The TMDLs established today apply to these waters.

Response to Comment 2

Section 303(d) of the Clean Water Act applies to the waters on the State of California's list of impaired waters regardless of whether another agency is preparing an Environmental Impact Statement (EIS) for activities proposed within those waters. These TMDLs do not include an implementation plan, however they are not expected to conflict with the restoration options that the Corps' will be evaluating in its EIS.

Response to Comment 3

Public Law 780 was passed by Congress in 1954 to authorize river and harbor projects throughout the country, including development of the Marina Del Rey harbor. This legislation does not affect the application of Section 303(d) of the Clean Water Act to the Ballona Creek Wetlands.

Comment Letter from Grassroots Coalition
Received January 26, 2012 11:25AM

TO: USEPA Region IX
Alexis Strauss, Director- Water Division
Cindy Yen, Water Division

FROM: GRASSROOTS COALITION,
Patricia McPherson, President

RE: USEPA ENDORSES MASSIVE BULLDOZER AND EARTH MOVER DESTRUCTION TO ENDANGERED SPECIES NESTING HABITAT UPON THE LAND MASS KNOWN AS BALLONA WETLANDS --- VIA ILLEGITIMATE TMDL ON BALLONA'S SEASONAL FRESHWATER WETLANDS

GRASSROOTS COALITION AND ALL OF THE GROUPS THAT SPENT THE PAST 20+ years WORKING TO SAVE BALLONA OPPOSE THE USEPA TMDL PROCESS AT BALLONA WETLANDS AND REJECT THE BIASED, INCORRECT REPORT SUPPLIED BY USEPA.

Ballona Creek is already classified as an impaired water body under the Clean Water Act section404. The Ballona Creek already has an established TMDL. Here, USEPA attempts to impose NEW TMDL requirements (under an illegitimate excuse of expediency needed to abide by a Consent Decree) upon lands that do not have tidal inundation or Ballona Creek water flow movement over the land. **Comment 1**

USEPA endorses a plan of 'restoration' that is not a part of the required EIS/EIR process. The EIS/EIR process has not yet had scoping.

Comment 2

The land mass that USEPA intends the most massive bulldozer operations -to inundate the area with both impaired water from Ballona Creek and impaired water from Santa Monica Bay-is AREA A - a land area that is free from that contamination and historically was not inundated as promoted by USEPA. **Comment 3**

Not discussed in the USEPA report is that-
AREA A is seasonally inundated by fresh rainwater and is host to numerous endangered species nesting as well as species of special concern and numerous other

native species of flora and fauna. See also numerous historical reports such as the CLARK Report etc.- location cited herein.

Despite repeated requests for data support , USEPA continues to fail to address or answer requests for such data and in many cases simply states that USEPA does not have and/or cannot find the data support for its unsubstantiated narrative.

Comment 4

For example-
USEPA mischaracterizes and spins a biased narrative of Area A in its need to act as a illegitimate agent for an
END OF PIPE SOLUTION to the contamination of Ballona Creek and the Santa Monica Bay.

USEPA attempts to destroy a seasonal wetland - endangered itself- while BAllona Creek and Santa Monica Bay remain continually polluted with no end in sight as no meaningful attempts to provide upstream cleansing of BAllona Creek have taken place. Santa Monica Bay remains polluted as no meaningful attempt to stop effluent from broken sewage pipes and other polluting mechanisms have been targeted for repair. Thus, Ballona Wetlands becomes the END OF PIPE SOLUTION for the City of LA and USEPA.

Comment 5

Grassroots Coalition (GC) opposes USEPA engagement at the Ballona Wetlands as is currently being set forth under inapplicable authority and auspices of a TMDL process.

1. USEPA artificially and inappropriately pushes the cart before the horse guised as a TMDL establishment in a land mass area that has been designated as 'clean' by LARWQCB.

Comment 6

- USEPA fails to abide by federal EIS/EIR protocol required and not yet performed upon Ballona Wetlands. The EIR lead agency of Ballona is Ca. Dept. of Fish and Game and the EIS lead agency is the Army Corp of Engineers. Instead, USEPA inappropriately uses a 'plan' set forth by paid staff and board members of a private nonprofit- Santa Monica Bay Restoration

USEPA SANCTIONS LACK OF ACCOUNTABILITY-

Comment 7

THE EIS/EIR REQUIRES GEOHYDROLOICAL STUDIES OF THE near surface rivers and waters/aquifers and springs HOWEVER, NO SUCH STUDIES HAVE TAKEN PLACE.

NO GEOHYDROLOGICAL STUDIES HAVE BEEN PERFORMED UPON BALLONA WETLANDS whose setting is upon a non-adjudicated aquifer basin.

Comment 8

Playa Capital continually withdraws and throws into the sanitary sewer millions of gallons of groundwater. There has been no accountability for the actual volumes and effects that this perpetually withdrawal has upon the wetlands of Ballona. Under the Basin Plan and numerous other state and federal laws, Playa Capital is not allowed to harm the underlying aquifers HOWEVER, no accountability remains for the withdrawal of the groundwaters of BAllona. USEPA turns a blind eye to NPDES permits and fails to provide accountability for enforcement.

Meanwhile, USEPA decides to choose an unsubstantiated narrative to create a new TMDL and to remain mute to answering difficult questions.

Comment 9

USEPA misrepresents that a Consent Decree drives the need for a TMDL to be established for the land mass known as BAllona Wetlands.
- The Consent Decree (CD) was established PRIOR to ANY land acquisition at Ballona for wildlife purposes and thus had no relation to the land.
The land at the time of the judge's ruling of the CD was approved for a massive private development project. The only water body included with the CD edict was Ballona Creek itself. (Ballona Creek is a US Army Corps of Engineers project drainage channel from Los Angeles into the Santa Monica Bay. (The Ballona Creek waters, since the CD, have not been made free of toxic contaminants and there is no showing from the City of Los Angeles or other agency that any detoxification will occur in the future.)

Comment 10

2. USEPA uses a non-approved plan of restoration as a basis for its TMDL judgements.

3. 2005- a joint EIR/EIS between the US Army Corps of Engineers and California State Fish and Game has yet to have a scoping process and thus has not even started.

- USEPA bases its TMDL reasoning upon a proposed plan by the Santa Monica BAy Restoration Commission which is driven by STAFF and BOARD MEMBERS of a

PRIVATE NON-PROFIT who have utilized public bond money for their own private agendas.
- The private non-profit - Santa Monica Bay Restoration Foundation has voting board members that vote and work on the environmental planning and have direct and indirect financial benefit in the planning and execution process via their roles as part of the CLOSED BUDDY SYSTEM known as the
Santa Monica Bay Restoration Foundation. These same Foundation board members are also in key state agency positions that provide the bond money (in most cases with no applications for such) and who promote the Foundations's staff and board member agenda via the
Santa Monica Bay Restoration Commission - who vote as prescribed by the SMBRCFoundation.

4. USEPA misrepresents the Ballona Wetlands in its TMDL report and allows for a skewed and biased approach as its intended 'restoration plan'.

Comment 11

5. USEPA has continually failed to represent public comments reflecting the above comments as well as providing no comment or response to numerous supplied documents and queries regarding both USEPA integrity of legitimate process and historical documents that might support USEPA contentions. Instead, USEPA simply has told us that it too cannot find the historical documents and that we must accept USEPA's unsubstantiated narrative.

Comment 12

6. USEPA excludes the historic BAllona Wetlands region in its % derivative of what was and what USEPA now chooses to say- that being only Areas A,B,C,D of BAllona - that all of what was historically a part of BAllona must now be crammed into the newly saved land mass sections.

a. The lands saved- a,b,c,D were not open to tidal flux on the surface as USEPA now chooses to make happen by virtue of the TMDL creation and the USEPA defined need for bulldozers and dredging.

b. The lands that make up Ballona's historic water area are now much greater that historic as the Marina del Rey , the catch basin- freshwater marsh now exist. Further, USEPA -in its misapplied authority for determination of dredging and filling needed on the land mass of Ballona also - in its

skewed analysis - does not include Ballona Lagoon Marine Preserve or Del Rey Lagoon as part of their review of what historically was Ballona then and now.

Comment 13

The USEPA analysis is fundamentally flawed and without data support. USEPA fails to disclose that the EIS/EIR of the land must occur.

Instead, USEPA -utilizes a predetermined outcome created by staff and board members of a private nonprofit who directly and/or indirectly financially benefit from contracts of the predetermined plan and outcome.

Comment 14

The private nonprofit board members -who vote in multiple meetings of SMBRC, Foundation and thus public bond money is in a self defined -closed loop of their authority- which benefits directly and indirectly from the public's bond money. Other benefits also are provided to the closed loop of Foundation driven persons.

The OCCUPY MOVEMENT speaks to the nation's outrage for lack of accountability of our government agencies and corporate greed. This TMDL continues the lack of accountability and the cover-up to the public.

Grassroots Coalition, Patricia McPherson

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

11. Grassroots Organization

Response to Comment 1

USEPA is addressing the listed impairments for Ballona Creek Wetlands pursuant to CWA Section 303(d). The Ballona Creek Wetlands are a different waterbody than Ballona Creek. This TMDL describes the past and present hydrology of the Wetlands.

Response to Comment 2

USEPA disagrees. USEPA is not endorsing any particular plan of restoration for the Ballona Creek Wetlands. This TMDL does consider the impact of historical discharges of sediment, as well as the ongoing effects of exotic vegetation, on the functions of the wetlands as they existed prior to the discharges and other modifications. This led USEPA to establish a TMDL that requires removal of excess sediment to the extent that the excess sediment impairs the hydrology and healthy functioning of the wetlands.

Response to Comment 3

USEPA agrees that Ballona Creek Wetlands Area A is seasonally inundated by fresh rainwater. USEPA has included additional information on this matter in the final TMDL. The TMDL provides a summary of the many native species inhabiting Ballona Creek

Wetlands, in addition to threatened and endangered species, as well as species of special concern (See Section 3.2 of the TMDL).

Response to Comment 4

USEPA staff communicated with the commenter during public workshops for the Ballona Creek Wetlands TMDL on October 13, 2011 and January 9, 2012. USEPA answered questions during and after the public workshops, but USEPA is not aware of any specific requests for data that remain unanswered. Staff did receive a brochure and two submitted comments from Mr. John Davis during the October 13, 2011 workshop.

Response to Comment 5

USEPA disagrees. These TMDLs are established to address the existing impairments to the Ballona Creek Wetlands. The State previously adopted three TMDLs in Ballona Creek and Ballona Estuary for metals, bacteria and trash to address pollutants coming from the upstream watershed. These TMDLs include detailed implementation plans and compliance schedules to ensure permit limits and best management practices are in place to reduce pollutant loading in the watershed.

Response to Comment 6

TMDLs are required for all waterbodies listed under CWA Section 303(d). USEPA has committed to approve or establish TMDLs for the Ballona Creek Wetlands by March 24, 2012, pursuant to the 1999 consent decree, Heal the Bay Inc., et al. v. Browner, et al., C 98-4825 SBA.

Response to Comment 7

The TMDL document is separate from the EIR process. USEPA considered the data and analysis provided by the various government agencies, nonprofit entities, and other interested parties in setting load allocations. The TMDL does not include an implementation plan.

Response to Comment 8

USEPA believes it has enough information to develop these TMDLs, but USEPA recognizes that implementation of the TMDLs would benefit from further study.

Response to Comment 9

USEPA does not have information which indicates that groundwater withdrawls by Playa Vista are contributing to the listed impairments for the Ballona Creek Wetlands.

Response to Comment 10

See Response to Comment 6 above. Ballona Creek and the Ballona Creek Wetlands are listed as separate waterbodies under CWA Section 303(d), and the Ballona Creek Wetland TMDLs are covered by the Consent Decree. The timing of the acquisition of the Ballona parcels does not affect the requirements of CWA Section 303(d) or the Consent Decree.

Response to Comment 11

See Responses to Comments 2, 6 and 7 above.

Response to Comment 12

See Response to Comment 4. USEPA is not aware of any outstanding request for historical documents by the Grasslands Coalition.

Response to Comment 13

USEPA believes that the pre-development condition of the greater Ballona Wetlands complex, which included Marina del Rey, Del Rey Lagoon and Ballona Lagoon, is relevant to determining the range of habitat composition and diversity in the Ballona Creek Wetlands. Since the Ballona Creek Wetlands are only a portion of the original wetlands complex, and its hydrology has been significantly altered, USEPA also considered the historical characteristics of other coastal estuary ecosystems in Southern California. By capturing the range of habitat variability observed at the Southern California coastal wetlands, including Ballona Wetlands, it provides the foundation for setting habitat acreages reflective of a healthy functioning wetland. Historical ecology of the greater Ballona Wetlands complex provide evidence of a dynamic ecological and hydrological system experiencing tidal and freshwater flow (Dark et al. 2011).

Response to Comment 14

USEPA disagrees. USEPA developed these TMDLs based on the available information. USEPA recognizes that State and federal agencies and non-profit organizations are engaged in an effort to restore this area to fully functional wetlands, and believes that these TMDLs are compatible with the effort.

References

Dark, S., E. D. Stein, D. Bram, J. Osuna, J. Monteferante, T. Longcore, R. Grossinger, and E. Beller. 2011. Historical ecology of the Ballona Creek watershed. Southern California Coastal Water Research Project Technical Publication No. 671. 75 pp. http://urbanwildlands.org/Resources/TR_671_Ballona%20Historical%20Ecology.pdf

PLAYA VISTA

January 26, 2012

By Email and Federal Express
Ms. Cindy Lin
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

RE: Draft Ballona Creek Wetlands TMDLs

Dear Ms. Lin:

Thank you for the opportunity to review and comment on the Draft Ballona Creek Wetlands TMDLs. Playa Capital Company, LLC (PCC) and the Ballona Wetlands Conservancy (BWC), the entities that are responsible for the construction and maintenance of the Freshwater Marsh adjacent to the Ballona Creek Wetlands, are writing to comment on only that aspect of the TMDL document. At the outset, it is important to note that the Freshwater Marsh lies outside of the area identified as impaired on the 303(d) list, and outside of the Ballona Wetlands Ecological Reserve. In that regard, PCC and BWC concur with the comments of Mr. David Lawhead from the California Department of Fish and Game at the public meeting held on January 9, 2012, that the TMDL document should more clearly and consistently articulate that the Freshwater Marsh is not a part of the Ballona Wetlands Ecological Reserve, and is not included within the proposed TMDL. In addition, to the extent the Freshwater Marsh is discussed in the TMDL document, we are writing to offer some factual corrections. Specifically, we offer the following comments:

- Cover page – the photograph is not a picture of the Ballona Wetlands; rather, it is a photograph of the Riparian Corridor, an element of the Freshwater Wetland System (discussed on page 13 of the TMDL document) which is located to the east of Lincoln Boulevard and is not included within the proposed TMDL. This should be replaced with a picture of the Ballona Wetlands itself.

- Page 11, Figure 1 – the map should be revised to exclude the Freshwater Marsh from the blue-shaded area, consistent with the map shown on page 42 in Figure 13.

6500 Seabluff Drive Tel: 310-822-0074
Playa Vista, CA 90094 Fax: 310-821-9429

- Page 11, Section 2.2 – the last sentence regarding the Freshwater Marsh is incorrect; approximately two-thirds of the Freshwater Marsh was complete by 2003, and the entire marsh was complete by 2008. Further, the Freshwater Marsh addresses runoff from a watershed of over 1,000 acres, more than half of which lies outside of the Playa Vista development. However, rather than correct the sentence, we recommend that it should be deleted as it is unnecessary at this point in the document. This section simply introduces the concept of Areas A, B and C, with further explanations of each area to follow.

- Page 13, Section 2.2.4 – the name of the entity which manages the Freshwater Marsh is the Ballona Wetlands Conservancy, not Ballona Creek Wetlands Conservancy. The word "Creek" should be deleted from its title. Also, the Riparian Corridor was completed several years ago; the final sentence in the paragraph should be revised as follows: "A riparian corridor east of Lincoln Boulevard and outside of the project area connects to the southern end of the Freshwater Marsh." Finally, it should be noted in this section that the Freshwater Marsh is not a part of the Ballona Wetlands Ecological Reserve, was not included within the geography on the 303(d) list, and is not a part of the proposed TMDL. We also suggest that the 2nd paragraph from the discussion in Section 5.1.4 on page 57 be moved here (see comments below).

- Page 19, Figure 5 – the map provided is out of date; all of the areas shown on the map have already been acquired by the State of California. We suggest that the figure be deleted. Alternatively, the word "status" should be deleted from the title, and the area labeled "Future Conveyance to State" should be renamed "Conveyed to State Separately," and the label "Purchase Rights to be Conveyed for No Payment" should be revised to delete the words "to be." The label would therefore read "Purchase Rights Conveyed for No Payment;" the purchase rights conveyance has already occurred.

- Page 23, Figure 7 – the map should be revised to exclude the Freshwater Marsh, consistent with the map shown on page 42 in Figure 13. As noted above, the Freshwater Marsh is **not** part of the Ballona Ecological Reserve.

- Page 57, Section 5.1.4 – The first sentence of the 2nd paragraph should begin "The Playa Vista development..." Also, the final sentence in the 2nd paragraph should be revised to reflect that the constructed freshwater wetland is managed by the Ballona Wetlands Conservancy, not the Playa Vista development. Finally, we believe that it would be helpful if the 2nd paragraph were moved forward in the document to Section 2.2.4, so

that the explanation that the Freshwater Marsh is not included in the TMDL because it maintains separate treatment from Ballona Creek Wetlands and is covered under the Los Angeles County MS4 Permit is provided to the reader earlier.

Thank you for your consideration; we look forward to working with the EPA as you finalize these TMDLs. If you have any questions regarding these comments, please contact Marc Huffman at 310-448-4629.

Sincerely,

Patricia T. Sinclair
Co-President, Playa Capital Company, LLC

J. Marc Huffman
President, Ballona Wetlands Conservancy

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

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12. Playa Vista

Response to Comment 1

USEPA has made corrections to Figure 1 and included additional clarification in the TMDL that the freshwater marsh is not included in the Ballona Wetlands Ecological Reserve boundary.

Response to Comment 2

USEPA made modifications to the text in Section 2.2. The paragraph clarifies ownership and management responsibility of the various wetland acreages in the region. The sentence now reads, "*The remaining 36 acres owned by SLC is the Freshwater Marsh mitigation site constructed for the Playa Vista Development to the east.*"

Response to Comment 3

USEPA deleted "Creek" and corrected the entity managing Freshwater Marsh to the Ballona Wetland Conservancy. USEPA also made the revision to suggested final sentence describing the "riparian corridor". Clarification that the Freshwater Marsh is not included in the Ballona Wetlands Ecological Reserve boundary was included in Section 2.2.4.

Response to Comment 4

USEPA made corrections to Figures 5 and 7.

Response to Comment 5

USEPA made the suggested language edits to Section 5.1.4 and added clarification of the Freshwater Marsh status in Section 2.24.

Travis Longcore Comment Letter
Received January 14, 2012 7:56PM via Email

Dear Dr. Lin,

I left you a message some time ago about the impairment decision and TMDLs for Ballona wetlands. It seems that the EPA has reached the conclusion that the Ballona Wetlands are suffering from an impairment in that it has reduced tidal flushing.

It is simply not supported by the historical record that the Ballona Wetlands currently have less tidal flushing than before major human alterations. The Ballona Wetlands in their condition prior to being jettied open in the late 1800s were not permanently open to the ocean. In fact, it was only periodically open during the winter when the hydraulic force of the watershed was sufficient to force an opening through the rather large dune berm that formed as a result of longshore sediment transport. This closure was frequent and even more frequent post-1825, after the point at which the Los Angeles River changed course from Ballona to San Pedro.

These facts are well documented in the historical record and discussed in two white papers released by the Southern California Coastal Water Research Project (funded by Sea Grant and the Santa Monica Bay Restoration Commission):

Dark, S., E. D. Stein, D. Bram, J. Osuna, J. Monteferante, T. Longcore, R. Grossinger, and E. Beller. 2011. Historical ecology of the Ballona Creek watershed. Southern California Coastal Water Research Project Technical Publication No. 671. 75 pp. http://urbanwildlands.org/Resources/TR_671_Ballona%20Historical%20Ecology.pdf

Relevant text:

"Approximately half of the aggregate Ballona Lagoon area consisted of a freshwater and tidally affected saltmarsh and brackish habitats that transitioned into a more alkaline/freshwater system about 1.5 miles (2.4 km) inland. Historical habitat of the Ballona Lagoon coastal complex consisted of substantial amounts of brackish to salt marsh/tidal marsh habitat (29%), followed by salt flat/tidal flat (10%). Open water made up less than 3 percent of the lagoon and one of the more salient features of the complex was a long but narrow strip of open water referred to by some as a "lake" at what we call today Del Rey/Ballona Lagoon (Sheridan 1887). This strip of open water periodically emptied into the ocean at the documented location of seasonal tidal access (figure 22). **We found no evidence that the lagoon remained perennially open, but rather the textual sources indicate that access to the ocean depended on hydraulic forces during any given year** (LAT 1887, Sheridan 1887, Hansen and Jackson 1889, Solano 1893). The migration of the Los Angeles River away from the lagoon transitioned the system into a lower energy system where only on rare occasions was there enough freshwater flow from Ballona Creek to break through the buildup of sediment along the

coast. As a result, gradual build up of sediment around the terminus of the previous estuary formed dunes and created this “trapped” lake-like feature. The coastal dunes, which occupied four percent of the Ballona Lagoon coastal complex, played a significant role in the formation of the lake and the limited tidal access (see Jacobs et al. 2011)."

Jacobs, D., E. S. Stein, and T. Longcore. Classification of California estuaries based on natural closure patterns: Templates for restoration and management. Southern California Coastal Water Research Project Technical Publication No. 619a. 50 pp. (August 2010, updated August 2011). http://urbanwildlands.org/Resources/619.a_EstuarineClassificationRestorationDesign.pdf

Relevant text:

With the decrease in the size of the watershed, the Ballona Creek system began to resemble what the lower Los Angeles River before the great flood of 1825. Without the flow of the larger river to provide a drainage course to the sea, there is evidence that the connection to the ocean became more intermittent. This closure becomes evident in the attempts to create a deepwater port at Ballona in the 1870s.

The newspaper accounts of the attempted development of a deepwater port at Ballona provided a snapshot of the condition of the wetland, estuary mouth, and dune complex at that time. From these accounts, it is evident that by the 1880s, the mouth of Ballona Creek had become more or less permanently closed by a dune created by longshore drift. It was through this 200-foot wide beach that an entrance was excavated in an effort to open up what was described as a 'lake´ to the sea for use as a protected port.

Before construction of the harbor, the integrity of the lake is well described for the summer and its breaching of the dune described (Los Angeles Times 1887).

Four miles southwest of Santa Monica, and ten miles southeast of Los Angeles, lying in the shelter of a low range of hills rising from the valley toward the sea, is a small, narrow lake at the point where La Ballona creek debouches into the ocean. **It is a true lake, for, although it lies close down upon the sand of the beach, a well-defined earth formation encircles it, and proves conclusively that its water is not drawn by seepage from the sea.** As has been said, the lake is exceedingly narrow. Its length along the shore is about two miles, and it varies in width from two hundred to six hundred feet. The water in it varies in depth, in ordinary times, from six inches to twenty feet.

Back of the lake there is a range of drifting sand-hills so common along the seacoast of Southern California; and behind these hills there stretch away for miles the low marsh lands of the Centinella ranch. La Ballona creek comes down through this marsh -- which is, after all; only a wash of sediment from the hills and higher plains toward Los Angeles -- and **in the rainy season the creek breaks through the sand-hills, and the waters overflow the lake and find an outlet into the ocean.**

A similar description of the construction of the channel was previously reported (Los Angeles Times 1886). Further information about the condition of the wetlands inland from the sand dunes is found in discussion of the proposed sewer and ocean outfall for Ballona in the 1880s.

That portion of the route passing through the Cienega rancho, a distance of about three miles, is covered with water during the winter, and even in summer the water stands within six inches of the surface. The ground is soft and elastic....

For a long distance the proposed route crosses the Ballona ranch, the surface of which is nearly level and only a few feet above tide-water, and during the winter months is subject to overflow. The soil is soft, and the construction of a brick sewer under such conditions would be very expensive and unsatisfactory in results (Hansen & Jackson 1889).

These narrative accounts are particularly interesting to compare with contemporaneous maps. The 1876 coast survey shows a small entrance to the Ballona Lagoon from Santa Monica Bay at the far southern end of the flat valley near the taller, and older, terraces and associated sand dunes (Figure 9). Then the 1887 coast survey shows the new pier and entrance to the proposed port site (Figure 10). If the historic condition of the mouth of Ballona Creek were to be described from these maps alone, it might be presumed that the Ballona wetlands were always tidal, at least to the extent allowed by a small opening to the sea. The combination of these maps
with the narrative accounts lead to a far different conclusion, that the longshore drift of sand rapidly closed the berm connecting Ballona to the sea after major storms and a large freshwater lake was the rule, rather than the exception for the wetlands, even reaching inland up to five miles presumably as a consequence of perching of water behind a berm during modest stream flow episodes. These data are consistent with core data which show intermittent freshwater conditions in Ballona over the last 4,000 years (Palacios-Fest et al. 2006)

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I realize that this information conflicts with some interpretations that have been put forward about the historical ecology of the Ballona Wetlands (e.g., one possible interpretation of the SFEI T-sheet atlas and the Ambrose and Bear 2008 report). These reports, however, did not consider the extensive textual history prior to the T-sheets that describe the natural closure pattern of the wetlands or the geomorphological processes that lead to that closure pattern as described in Jacobs et al. (2011).

I ask that the reports referenced above be entered into any record and be considered in any further rulemaking that depends on understanding the historical ecology of the Ballona estuary and its historical closure dynamics.

This information is based on my research at USC; however, this email represents my professional opinion and is not an official position of the university.

Yours sincerely,
Travis Longcore

--
Travis Longcore, Ph.D.
Associate Professor (Research)
Spatial Sciences Institute
Dana & David Dornsife College of Letters, Arts and Sciences
University of Southern California
3616 Trousdale Parkway, AHF B57F
Los Angeles, CA 90089-0374
longcore@usc.edu
spatial.usc.edu

Response to Comments on the Total Maximum Daily Loads
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RESPONSE TO COMMENTS

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13. Travis Longcore

Response to Comment 1

USEPA included relevant information provided by the commenter in the TMDL (See Section 2.4 of the TMDL). In this TMDL, USEPA confirmed the current impaired wetland condition, identified wetland goals necessary to support water quality standards and protection of the beneficial uses and defined the allocations for the primary pollutants. USEPA is not asserting a static condition for Ballona Wetlands historically or currently. The multitude of reports, studies and assessment of the historical ecology for Ballona Creek Wetlands and other southern California coastal wetlands strongly indicate that a coastal wetland, such as Ballona Creek Wetlands, likely experienced very dynamic hydrologic and ecological conditions between seasons and years. USEPA recognizes that Ballona Creek Wetlands receives a mix of tidal and freshwater flows historically and currently. However, given the current physical conditions of the wetland habitats and the very limited hydrological connections between Ballona Creek Wetlands and adjacent waterbodies (i.e., Ballona Lagoon, Del Rey Lagoon, Marina del Mar), we confirmed as part of our background assessment that tidal flushing is one of the many critical limiting factors towards a functioning wetland. USEPA is not asserting this is the only limiting factor.

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FAX: (213) 485-3939

January 26, 2012

Cindy Lin, D. Env.
United States Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Dear Dr. Lin:

TECHNICAL COMMENTS ON THE DRAFT BALLONA CREEK WETLANDS TMDL FOR SEDIMENT AND INVASIVE EXOTIC VEGETATION

The City of Los Angeles (City) appreciates the opportunity to provide technical comments to the United States Environmental Protection Agency (USEPA) for the proposed Total Maximum Daily Load (TMDL) for Sediment and Invasive Exotic Vegetation in the Ballona Creek Wetlands (Wetlands). The City supports the restoration of the wetlands and appreciates USEPA's efforts to restore the Wetlands and its productive meetings with staff on the TMDL. The City has reviewed the draft TMDL and is presenting the following comments to highlight concerns with the following issues:

1. THE TMDL DOES NOT ESTABLISH A LINK BETWEEN ACTIVITIES OF THE CITY AND THE CURRENT AND HISTORICAL IMPAIRMENT OF THE WETLANDS

The Draft TMDL indicates that the primary cause of the listed impairments to the Ballona Creek Wetlands is historic (i.e. legacy) sediment infill of the wetlands due to anthropogenic activities in the last hundred years (p.38, 49, 61, 62, 65, Draft TMDL), which has led to reduced tidal and freshwater flow to support habitat and aquatic life, an increase in exotic or non-native species, and destruction or alteration of tidal wetland habitats (p.29 – 39, Draft TMDL).

The linkage analysis clearly documents a link between raised elevation due to sediment infill due to anthropogenic activities and the impaired health of the wetlands.[1] Since the early 1900's,

[1] "Elevation is a major determining factor of habitat composition in wetlands," (p.61, Draft TMDL) and can be linked to water quality, salinity, circulation patterns, vegetation patterns, and benthic and fish community diversity (p.61, Draft TMDL).

anthropogenic activities have deposited up to 18 feet of sediment fill in the wetlands (p.46, Draft TMDL), and raised the elevation of the wetlands to 12 – 15 feet above mean sea level so that the Wetlands are now above the elevation of tidal inundation (p.58, Draft TMDL). The Draft TMDL specifically names "sediment accumulation and channelization and bank hardening of Ballona Creek" as the activities that have had the most impact on the wetlands (p.61, Draft TMDL) and specifies that the "...pollutant targeted in this TMDL is sediment from the dredging of Marina del Rey, sediment removal and movement due to road and levee construction and the channelization of Ballona Creek" (p.65, Draft TMDL).

Additional data from the Army Corp of Engineers (ACOE) show that in creating Marina del Rey, 1,557,000 yd^3 of material was removed from Marina del Rey and placed in Area A of Ballona Wetlands. That compares to the 2,100,000 yd^3 required for removal as a legacy sediment deposit load allocation of p. 68 of the TMDL. Also during this construction, 942,000 yd^3 of material was placed in Area C, as compared with 300,000 yd^3 required for removal load allocation.

Also, ACOE staff indicated that the sediment dredged for Ballona Creek channelization was not placed in Wetlands but was used in levee construction (Appendix A, sediment deposition information).

However, the Load Allocations for removal of this legacy sediment (p.67, Draft TMDL) fail to link the City as a responsible party with the specific activities associated with the legacy sediment issues. Though the Draft TMDL specifically identifies construction of the Pacific Electric Railroad, commercial agriculture activities, oil and gas production, flood control measures and the straightening of Ballona Creek by United State Army Corps of Engineers, and excavation of Marina del Rey as the events responsible for causing the most significant alteration to the wetland (p.58, Draft TMDL), no attempt is made to name parties responsible for these legacy sediment issues nor is any attempt made to justify the linking of the City as a responsible party with the current or historical impairment of the wetlands.

Instead, any agencies with "responsibility for construction, operation, and/or maintenance of water, land, and facilities within Ballona Creek Wetland" (p.67, Draft TMDL) are deemed to bear equal responsibility for removal of the legacy sediment. The TMDL does not assign proportional responsibility to the agencies. Thus, EPA has assigned the City an indeterminate portion of the cleanup responsibility for "legacy sediment deposits" while simultaneously acknowledging that the City is not responsible for any current actions that are impairing the Wetlands, nor is the City responsible for the presence of the legacy sediments themselves. EPA has not provided any additional support, evidence, or linkage between past actions causing excess sediment in the wetlands nor present responsibility for removing the legacy sediment. The City has no responsibility for these activities in the Wetlands, and therefore should not have responsibility for removal of legacy sediment.

Therefore as described, the City bears neither responsibility for the specified sediment deposition events nor any responsibility for current management of activities that are associated with legacy sediment issues. The City retains an easement to access a sewer line in the Wetlands. However, as stated in Comment 2 below, there is no evidence of the sewer line being in current use and an easement alone does not constitute control over the area.

Request: Remove City from the Load Allocations involving legacy sediment.

2. INVASIVE SPECIES

Load and Wasteload Allocations for invasive exotic vegetation are assigned to agencies responsible for stormwater discharge to the wetland and to the same agencies named as responsible parties for the legacy sediment (p.69, Draft TMDL). As demonstrated in the TMDL, there is a direct link between invasive exotic vegetation and deposition of legacy sediments (p.36, 39, 43-44, 49), which caused an increase in land elevation and consequently created more uniform upland habitat areas at the cost of other diverse wetland habitats areas.[2] Invasive species are directly correlated with "...past activities which added excess sediment and altered the physical transport of sediment in and out of the Ballona Creek Wetlands, and allowed for the introduction and proliferation of exotic vegetation" (p.49, Draft TMDL). Note that no other anthropogenic activities, including current stormwater discharges, were linked with the proliferation of invasive species and the resulting impairment to the wetlands anywhere in the Draft TMDL.

As with the legacy sediment Load Allocations, no attempt is made to name parties responsible for the legacy sediment issues (and hence the corresponding increase in invasive exotic vegetation), nor is any attempt made to justify individual agencies currently listed as responsible parties with past activities that caused the increase in elevation and invasive species.

Furthermore, no link is established anywhere in the Draft TMDL between sediment deposited by stormwater discharges and increased elevation (and the corresponding increase in invasive exotic vegetation). The Point Sources List includes a City owned sewer line as a possible source of sediment (Section 5.1.5.) However, City "as-built" construction documents show the line was closed by 1958. (Appendix B). Moreover, this is not a current source of sediment, and pre-dates the placing of Marina del Rey fill into the Wetlands (December 15, 1960). Although the City has an easement over this sewer line, there is no evidence it has been used since its closure in 1958. Thus, the sewer line should be removed from the list of point sources in the Draft TMDL.

The City bears neither responsibility for the specified sediment deposition events (and corresponding increase in invasive exotic vegetation) nor any responsibility for current management of activities that are associated with legacy sediment issues.

Request: Remove City from the Waste Load and Load Allocations for invasive exotic vegetation.

3. STORMWATER BORNE SEDIMENTS

Though the City is, in fact, responsible for management of some stormwater discharge into the wetlands as part of the MS4 permittees group, no link is established anywhere in the Draft TMDL between sediment deposited by stormwater discharges and wetland impairment. Throughout the TMDL, there are indications that stormwater discharges from Ballona Creek are not only considered low, but conclude that stormwater sediment discharges have little or no adverse impacts whatsoever. [3]

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[2] Wetlands with a high percentage of upland habitats tend to "have greater impacts from invasive species and provide more opportunities for them to impact the adjacent wetland habitats" (p.62, PWA 2008). Invasive species "...dominate upland areas that were impacted by dumping of excess sediment" (p.36, Draft TMDL).

[3] (p.59, PWA 2008), but are actually "lower than the natural concentrations that existed before the large-scale development activities" (p.59 Draft TMDL, PWA, 2008). In fact, as highlighted on page 65 of the Draft TMDL, the

The Draft TMDL describes stormwater-borne sediments Waste Load Allocation (WLA) for the City. The City recognizes that a WLA for stormwater-borne sediments will be assigned and concedes that the proposed current conditions WLA for stormwater is reasonable, provided that the WLA be implemented as part of an appropriate averaging period. Since the estimate of current sediment discharge is based on a 10-year average of sediment discharge from Ballona Creek (p.33-34, Ballona Creek Estuary Toxics TMDL), the City requests that compliance with the WLA be evaluated over a 10-year averaging period in order to capture representative temporal variation in sediment loads.

Request: Include an averaging period of 10 years for stormwater borne sediments in the WLA.

OTHER ISSUES FOR CONSIDERATION

SEA LEVEL RISE

While this TMDL, like other EPA developed TMDLs, does not have an implementation period, it is reasonable to assume it will be implemented over a number of years. Studies show that in the next 30 years, sea level is expected to rise approximately 2 feet (www.globalwarmingart.com/wiki/Special:SeaLevel), which will impact the wetlands. Sediment is expected to be removed to a depth allowing water over much of the Wetlands. The influx of sea water due to the rise in sea level will cover land at a higher elevation. Therefore, the total amount of sediment to be removed should be decreased to allow for sea level rise.

Request: The EPA council the Los Angeles Regional Water Quality Control Board to reconsider the amount of sediment to be removed, or provide a reopener if studies show that less sediment can be removed to achieve the proposed result.

APPROPRIATENESS OF TMDL FOR REMEDIATION

This TMDL is designed to address an historic, legacy pollutant, sediment, and seeks to remedy a pre-existing impairment through assigning responsibility to current dischargers. As stated repeatedly in the TMDL, however, the agencies assigned LAs and WLAs are not responsible for the existing impairments in the Wetlands. This is not the correct method to improve the Wetlands. TMDLs are designed to look forward, setting future load and waste load allocations and potentially reducing those loads such that a waterbody that is able to meet its beneficial uses. In the case of the Wetlands, however, EPA acknowledges that current loads and waste loads are not contributing to the impairment, and therefore no reductions in any ongoing loads are necessary (TMDL p65, 66). Since there is no reduction in ongoing load or waste load, a TMDL is not the correct way to address this issue. EPA may want to consider other avenues to encourage and support restoration of the Wetlands.

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wetlands may not be receiving enough storm-borne sediment: "Due to extensive urbanization and development of Ballona Creek Watershed (80% of the watershed is developed with 40% of the watershed area covered with impervious surfaces) the watershed system is suffering from limited suspended sediment draining to the Wetland (Personal Communication Karina Johnston, October 20, 2011)." There are several remarks in the Draft TMDL (p. 65, 66) that conclude that stormwater sediment discharges have little or no adverse impacts whatsoever: "...the current existing discharge of sediment load is not contributing to the listed impairments or otherwise causing a negative impact to Ballona Creek Wetlands..."(p.66, Draft TMDL). In fact, the only link between stormwater sediment discharge and wetlands health appears to be in conjunction with soil and water quality impacts from sediment-borne contaminants, which are already addressed in existing TMDLs (Harbors, BC Estuary Toxics, etc.).

As mentioned, the City of Los Angeles recognizes Ballona Creek Wetlands as an important environmental resource. The City supports the restoration of the Ballona Creek Wetlands and applauds those responsible for improvements. Additionally, the City thanks you for your consideration of these comments. If there any questions, please feel free to call Donna Chen at (213) 485-3928 or Lisa Carlson, staff lead on this TMDL at (213) 485-3932.

Sincerely,

for ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

EZ:SK:JLC
WPDCR 8918

Attachments

cc: Samuel Unger, Regional Water Quality Control Board
Deborah J. Smith, Regional Water Quality Control Board
Renee Purdy, Regional Water Quality Control Board
Michael Mullin, Mayor's Office
Traci Minamide, Bureau of Sanitation/EXEC
Varouj S. Abkian, Bureau of Sanitation/EXEC
Adel Hagekhalil, Bureau of Sanitation/EXEC
Shahram Kharaghani, Bureau of Sanitation/WPD
Mas Dojiri, Bureau of Sanitation/EMD
Omar Moghaddam, Bureau of Sanitation/RAD

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

14. City of Los Angeles

Response to Comment 1

Based on the information provided by the commenter, and other available sources, USEPA has removed the City of Los Angeles from the list of parties associated with the Load Allocation for legacy sediment. Although the City retains an easement within the Wetlands, it is unlikely that this dormant interest would affect the disposition of the legacy sediments or attainment of water quality standards. The City is included in the Wasteload Allocation for its contribution to the ongoing suspended sediment loading to the Ballona Creek Wetlands from sources covered by its Municipal Separate Storm Sewer System (MS4) permit. USEPA believes that this adequately captures the City's contribution of the sediment loading into the Wetland.

Response to Comment 2

The MS4 system could be transporting vegetation or seeds that lead to growth of invasive exotic vegetation in the wetlands. Therefore, USEPA has determined that the City should receive a WLA of zero for invasive exotic vegetation rated as "high" or "moderate" on the CA Invasive Plant Council's (IPC) Invasive List and 10% for species rated as "low" on the CA IPC list.

Response to Comment 3

The City is assigned a Wasteload Allocation for sediment because its MS4 is a source of ongoing sediment inputs. It is important to consider that functioning wetland systems require a constant input of sediment. Specifically, without the influx of sediment and freshwater from an upstream river, wetlands will slowly erode (essentially sediment deposition from a watershed offsets any sediment losses due to erosion). Therefore, sediment loading to the Ballona Creek Wetlands is an important part of restoring a balanced system and, at the current rates, has little to no adverse impact on the Wetland (note: impairments could be caused by sediment-borne contaminants associated with current loading; however, these loads are already addressed in existing TMDLs). (See Section 5 of the TMDL for further discussion)

Response to Comment 4

USEPA agrees a longer averaging period to determine compliance with WLA may be appropriate. However, at the time of USEPA establishing this TMDL, additional sediment loading information for Ballona Creek and Estuary was not available. USEPA is aware that total dissolved solids, settleable solids and total suspended solids monitoring are being conducted as part of the MS4 storm water monitoring program for Ballona Creek and Estuary. Consequently, it would be helpful to evaluate the results of the monitoring to evaluate current with previous sediment loading estimates. After USEPA establishes this TMDL, the State is authorized to provide an implementation plan or schedule or other regulatory mechanisms to address the TMDL. During this process, it is appropriate for the State to consider new information to determine the compliance mechanism. USEPA recommends additional monitoring to determine the appropriate averaging period for meeting compliance with the WLA and indicates that a longer averaging period may be appropriate (See Section 8.4 of the TMDL).

Response to Comment 5

USEPA has provided recommendations to the Regional Board and interested parties to the Wetland's restoration effort to continue monitoring. The State develops the implementation plan and can do so with various regulatory tools. If additional data and information at a later date suggest that the numeric targets and allocations need to be modified, the State has that authority (State Water Code). Consequently, USEPA establishes this TMDL based on the best available data and information today, and recognizes that additional modifications could be made if the State deems it necessary to do so in the future.

Response to Comment 6

Sediment and exotic vegetation are "pollutants" under the Clean Water Act and are a cause of the impairments that led to placement of the Ballona Creek Wetlands on the State's 303(d) list. The TMDLs address both past and current sources of these pollutants because USEPA

believes this is the only way to adequately address the impairments. The TMDL lists as cooperative parties, those entities that either currently own or operate portions of the Ballona Creek Wetlands, or own or operate facilities in proximity to the Wetlands that are expected to have an impact on the attainment of water quality objectives in the Wetlands. USEPA agrees that other avenues to restore the Wetlands may be effective in addressing these impairments.

Review comments on the Draft Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation

Date: January 12, 2012

Reviewer: Monica Eichler, Project Manager, US Army Corps of Engineers

	Page, Section	Comment
1	Throughout document	The Corps is referred to, spelled, and abbreviated multiple ways throughout the document. For consistency the preferred way is: US Army Corps of Engineers (USACE)
2	Pg 25, 3.1.2	The way this section is organized is confusing and headings seem inconsistent with the rest of the document. The water quality objectives are Hydrology and Habitat? or Exotic Vegetation and Solid Suspended or Settleable Materials? Or all?
3	Pg 38, 3.3, para 1, 2nd to last sentence	Change "…and Marina Del Rey…." to " and the Marina del Rey entrance channel….;
4	Pg 51, Table 9	Please clarify where the total Habitat acreage of 567 comes from. Adding up the acreage for Areas A, B, and C from section 2, the total is 543 acres. Maybe the 567 includes the Fresh Water Marsh and 543 does not?
5	Pg 51, Table 10	If these numeric targets are minimums, I do not see a need for a range as others suggested. As long as the total number is less than the total restoration acres available, there should be some leeway. I would interpret it as you must restore at least 522 acres out of 567 with a minimum acreage of each specific habitat type. But if people want a range, using the higher number, should add up to 567. But I still question that 567 number.
6	Pg 67, 7.2 and pg 71, 8.1	Suggest recognizing the on-going Federal Ballona Creek Ecosystem Restoration Study. In 2005, SMBRC entered into a feasibility cost-sharing agreement with the US Army Corps of Engineers, Los Angeles District to study alternatives for restoring the Ballona Creek ecosystem, and related purposes within the Ballona Creek watershed. Here is some more language regarding the Federal Study purpose.
6		The purpose of the Study is to identify opportunities to restore degraded habitat and ecosystem function of the Ballona Creek Channel and the Ballona Wetlands. The project addresses degradation and loss of habitat due to decreased tidal exchange and circulation; decreased biodiversity and overall ecological health; and lack of recreational opportunities of the creek and wetlands. This feasibility study includes investigations related ecosystem restoration, a USACE high priority mission, in addition to other outputs such as recreation, and water quality which also have a federal interest.

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

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15. US Army Corps of Engineers (1st Set)

Response to Comment 1

USEPA corrected and made the appropriate changes throughout the document.

Response to Comment 2

USEPA added clarification. The applicable water quality objectives include the narrative objectives for wetland hydrology and habitat; exotic vegetation; and solid suspended or settleable materials.

Response to Comment 3

USEPA corrected Section 3.3.

Response to Comment 4

The total habitat acreage is determined by estimating the amount of habitat historically available within present day Ballona Wetlands Ecological Reserve boundaries; these are based on the T-Sheet maps drawn by US Coastal Survey of coastal California. The maps provide an estimate of the extent of wetland habitat acreage historically. USEPA re-calculated the habitat acreages (See Section 4.3 of the TMDL for a detailed discussion).

Response to Comment 5

The elevation and habitat acreage targets are the minimum acreages required to meet the water quality objectives (See Response to Comment 4).

Response to Comment 6

USEPA agrees and has included the recommended text.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

February 16, 2012

REPLY TO
ATTENTION OF

Office of Counsel

Ms. Cindy Lin
Water Division
U.S. EPA R9 Southern CA Office
600 Wilshire Blvd, Ste 1460
Los Angeles, CA 90017

Re: EPA's draft report entitled, "Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation."

Dear Ms. Lin:

Thank you for discussing with us your agency's draft report entitled, "Ballona Creek Wetlands Total Maximum Daily Loads (TMDL) for Sediment and Invasive Exotic Vegetation" (Report). We have identified documents that provide clarifying information that would be helpful in completing your report. Initial documents are enclosed for your review. As we continue to review our records and identify documents, we will submit any additional documents that may be relevant to your report.

We apologize for not providing comprehensive comments during the public comment period, but as we indicated in our January 24, 2012, letter requesting an extension of the public comment period, the complex nature of the history, land ownership, and operations of the Los Angeles County Drainage Area (LACDA) Project made it infeasible to respond within the allotted time. The purpose of this letter is to follow our conference call on Tuesday, February 8, 2012, with written information and comments as we agreed during that call.

We understand that the State of California (State) identified Ballona Creek Wetlands as an impaired water pursuant to Section 303(d) of the Clean Water Act and that your agency was directed by consent decree to prepare a TMDL report for this and other 303(d)-listed waters. Your report describes the impairments of habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation, as identified by the State of California, and establishes TMDLs for the "critical stressors" of legacy sediments and invasive exotic vegetation as the sources of the impediments to the beneficial uses identified by the State.

The "primary pollutant of concern" identified in the report is "the legacy of anthropogenic sediment deposition." During our call, you confirmed that the term "legacy sediments" in the TMDL report refers to sediments that exist presently and that there is no significant current non-point source discharge of sediments. The TMDL report does not identify a current nonpoint source discharge of sediment with the exception of Fiji Ditch, which is deemed negligible, and erosion from Gas Company infrastructure, which is not discussed in detail. The Corps observes that it is unusual to assert authority over conditions that are not a result of an ongoing or future discharge under the Clean Water Act.

Additionally, the Corps requests that EPA provide clarification with regard to Table 17 on page 68 of the Report, which addresses the load allocation (applicable to nonpoint sources) for legacy sediments. It lists the load allocation as zero (0) but includes an additional column entitled "Legacy Sediment Deposits to be Removed." You indicated during the call that the column identified is provided as EPA's assessment of the sediment removal needed to reestablish beneficial uses. The specific quantities are based upon scientific analysis.

While we are involved with and supportive of current efforts to restore the Ballona Creek Wetlands, we are concerned that the TMDL suggests or implies that removal of sediment placed decades ago can be required of the identified responsible parties. The report should make clear that it does not in itself compel the removal of sediments or create or assert an obligation for any party to remove sediments placed in the wetlands prior to enactment of the Clean Water Act. We understand that, while the Regional Water Quality Control Board will be responsible for drafting an implementation plan to meet the load allocations, its ability to compel removal would depend upon the existing authorities available to it and not the provisions of the Clean Water Act. As discussed during our call, sediment removal to restore water quality standards is anticipated to be part of a voluntary plan agreed upon by agencies with management responsibility for the wetlands and other interested parties.

During our call, we also asked for clarification on the identification of "responsible parties" or "responsible jurisdictions," and whether Federal or state law mandated such identifications. You indicated that, under California state law, TMDL reports are required to identify responsible parties or jurisdictions. Please provide the legal context for this requirement.

In the report, the rationale behind identification of responsible jurisdictions should be clarified. Section 7.2 includes a list of entities "that are responsible for the established numeric targets and load allocations in this TMDL." It also states that "LAs are… allocated to all entities that are known to have responsibility for construction, operation and/or maintenance of water, and facilities within Ballona Creek Wetland." In Section 7.3, the report states ,"The load and wasteload allocations for invasive exotic vegetation are … assigned to the current owners, operators, and land managers identified below: Los Angeles County MS4 and its Co-Permittees, Caltrans, Army Corps[s] of Engineers, California Department of Fish and Game, State Lands Commission, LA County (Flood Control District, Beaches and Harbors), and Southern California Gas Company." It is unclear what criteria are used to define an "owner, operator or land manager." We request that EPA articulate more clearly how responsible parties are identified and more specifically, what activities, if any, suggest that the Corps is a responsible party with regard to legacy sediment at Ballona Creek Wetlands.

The Corps acknowledges that it channelized Ballona Creek as part of the Los Angeles County Drainage Area (LACDA) project as directed by Congress, together with the local cooperation of Los Angeles County through its Board of Supervisors by resolution dated December 1, 1937. The Corps also placed sediments dredged from Marina del Rey in the Ballona Creek Wetlands during the 1950s and 1960s. The alteration of the wetlands and creek and placement of dredged material were conducted in accordance with applicable law and prior to the enactment of the

Clean Water Act, and we are not aware of any more recent activities by the Corps. Documentation detailing the history of the LACDA project is enclosed.

The Corps continues to be responsible for operations and maintenance activities in the vicinity of the Ballona Creek Wetlands, but not the wetlands themselves. Activities of the Corps include operations and maintenance responsibilities of portions of the Ballona Creek Channel above and below the area identified as Ballona Creek Wetlands and occasional dredging at the mouth of Ballona Creek. The County is responsible for the operations and maintenance of the portion of the channel that is directly adjacent to the wetlands. Dredged or fill materials are placed in accordance with applicable permitting requirements. Because the Corps does not have a direct relationship with regard to the Ballona Creek Wetlands, the Corps objects to being named as a responsible party.

According to the map and description provided, the channel is not considered part of the wetlands although the levees are a considered a stressor. The channel is listed separately as a 303(d) waterbody. The levees, as indicated above, were constructed as part of a general Los Angeles County plan to address flooding. The levees are a feature of the LACDA project. We understand that the purpose of the report is to acknowledge the impact of the levees and other stressors on the Ballona Creek Wetlands, but does not recommend removal of the levees. Please clarify that removal of the levees is not included in the EPA's recommendation to reestablish beneficial uses.

In a previous call, you also stated that references to upland habitat are not intended to suggest that wetland within the BCW was converted to non-jurisdictional upland. We suggest you clarify the references to upland in the TMDL report, such as in section 3.2.1.2, Table 4 ("Converted wetland to non-functional upland") and section 3.4, page 42 ("Within the present-day Ballona Creek Wetlands boundaries, vegetated wetland habitat decline[d] by 62.5% to 155 acres while upland habitat increased by over 1400%, to 291 acres. … The conversion of vegetated wetland to upland explains much of the change in habitat types over time.").

The Corps understands that the EPA has specific time deadlines that it must meet. Because of our interest in this report we would like to assist EPA in ensuring that the final TMDL report accurately represents the history of the Ballona Creek Wetlands area. If a follow-up meeting or conference call, would be useful to you, please contact me at (213) 452-3125 or Monica Eichler at (213) 452-4012.

Sincerely,

Lillian Dampios
Assistant District Counsel
Los Angeles District

Encl.

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

16. US Army Corps of Engineers (2nd Set)

These comments were received February 24, 2012 after the close of comment period, which ended on January 27, 2012.

Response to Comment 1

USEPA recognizes that the legacy sediment TMDL is unusual, however, this sediment is a "pollutant" which is causing or significantly contributing to three of the four listed impairments of this water body. Therefore, USEPA has established this TMDL.

Response to Comment 2

The load allocation is set as zero in this TMDL to indicate that additional sediment load cannot be deposited or transported, in any manner, to the Ballona Creek Wetlands; the Wetlands is significantly impaired and has no capacity to support additional sediment loading. USEPA and the State has set zero wasteload and load allocations in other TMDLs to conclude that the waterbody has no capacity for further loading of the pollutant (i.e., Los Angeles River Trash TMDL; Los Angeles Urban Lakes TMDL).

Response to Comment 3

These TMDLs do not impose requirements on any of the identified parties. USEPA has sought to clarify this issue by referring to the Corps and other parties as "cooperative parties"

and explaining that load allocations are jointly attributed to he entities that own or operating portions of the Ballona Creek Wetlands, or facilities in proximity to the Wetlands that are expected to have an impact on the management of legacy sediment in the Wetlands. See response to Los Angeles County Flood Control District Comment 3.

There may have been a misunderstanding in our telephone communication. TMDLs must identify "sources" of pollutants, which often leads to the identification of specific dischargers. However, it is not always necessary or possible to identify "responsible parties" for non-point source discharges. Load allocations for non-point sources are intended to be expressed in a manner that allows for them to be implemented and monitored effectively. See, e.g., Gudiance for Developing TMDLs in California, USEPA, Region 9, January 7, 2000. The State understands the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et. seq.) to require that TMDLs be capable of implementation when they are incorporated into Basin Plans. Therefore, for these TMDLs, USEPA has identified the entities that appear to have some control over the Ballona Creek Wetlands, or over facilities and activities that can affect the implementation of the load allocations and attainment of water quality objectives.

Response to Comment 4

As stated in response to Comment 4, above, USEPA identified the Corps as a cooperative party because its current activities in and around Ballona Creek can affect the impairments to the Ballona Creek Wetlands. These activities include, but are not limited to, the operation and maintenance of the Ballona Creek Channel referred above in the comment.

Response to Comment 5

USEPA evaluated the multiple stressors and causes that led to the current impaired condition. USEPA's determination did not suggest restoration of Ballona Creek Wetlands would require the removal of the levees.

Response to Comment 6

USEPA clarified the references and added additional background information. Please see Section 3.2.1.2 of the TMDL.

Comment Letter from Joyce Dillard
Received January 27, 2012 11:21AM via Email

TO: Alexis Strauss, Cindy Lin

Ballona Creek Wetlands was once the result of the fluctuating course of the Los Angeles River. The Indians from the area still talk about the constant course change of the LA River.

That natural course and movement seized with Flood Control.

Any Sediment TMDLs or Exotic Vegetation needs to be reviewed in the light of today's world, not yesterday's historical accounts.

You do not address "Wetland Banking," (like Land Banking).

Missing in this report is the implementation of the Low Impact Development Ordinance as a method of Stormwater Diversion by Rainwater Harvesting. This is technique of Clean Water (Wastewater) Program.

The Consent Decree is not the major player in this design. You should provide a copy for this file.

Restoration of these wetlands will make the area eligible as a major Offsite Mitigation Site. The new development(s) that have issues around underlying groundwater (high groundwater, contamination), site soils (infeasible infiltration rate, landslide or hillside grading, geotechnical hazards such as liquefaction, collapsible soils, or expansive soils) and site surroundings (fill site, steep slope grade) need an Offsite Mitigation Site to proceed. Along with oil and tar in the region, what percentage of land really qualifies for this approach to reduce TMDLs.

It is technically known, but practically, downtown LA, Hollywood and mid-Wilshire LA appear to need offsite mitigation with almost all projects. San Fernando Valley qualifies around the groundwater contamination issue, whether from wells or from landfills.

The purpose of TMDLs is to reduce pollutants into the Receiving Waters. This is NOT the purpose of the Low Impact Development Ordinance and of the construction of the Ballona Wetlands, as presented.

In fact, the Los Angeles Department of Public Health, Environmental Health Department, has issued:

Guidelines for Harvesting Rainwater, Stormwater and Urban Runoff for Outdoor Non-Potable Use

These guidelines were written and lobbied by groups and their representatives who receive funding for related projects and some specifically as parties to the consent decree such as Heal the Bay. There was no period opened for Public Comment nor was there a Public Hearing. The Guidelines were issued as a "closed-door deal" and a violation of due process.

These guidelines exclude corridors of high-use transportation corridors, industrial, agriculture, or manufacturing uses.

The land left that would suffice all the exclusions is the BALLONA CREEK WETLANDS.

So, one can conclude that the Developers benefit, not the public-at-large. This narrowing of the beneficial use end-user actually violates the language of the Low Impact Development Ordinance:

WHEREAS, the City of Los Angeles is authorized by Article XI, §5 and §7 of the State Constitution to exercise the police power of the State by adopting regulations to promote public health, public safety and general prosperity;

Public health, public safety and general prosperity are not even a consideration.

This is further emphasized, in these LACDPH-EHD guidelines, that Federal and State agencies have not yet acted for standards or testing requirements.

Basis for Development of the Guidelines

An annual review of this document shall be conducted by EHD until such time when the federal Environmental Protection Agency, or a state regulatory agency or local governing body, develops regulations pertaining to rainwater/stormwater runoff harvesting systems which supersedes these local requirements. Participation in research studies pertaining to rainwater and stormwater harvesting and use shall be a condition of approval of projects by EHD under these guidelines. The findings of those studies shall be used to modify and improve future revisions of these guidelines.

The receiving water TMDL contamination has no guarantee of reduction. There are no research studies to rainwater and stormwater harvesting and use.

The EPA has failed co-relate TMDLs and Harvesting Rainwater, Stormwater and Urban Runoff and to protect the Public Health and Safety.

Los Angeles Regional Water Quality Control Board has no listing or action for BALLONA CREEK WETLANDS TMDLs.

You fail to recognize the development of Marina Del Rey under the County of Los Angeles jurisdiction and the distinction of the original Ballona Valley and the Greater Playa del Rey Estuary.

From the report posted on the LA County Regional Planning website:

http://planning.lacounty.gov//case/view/project_no._r2009-02277-4_adv_200900014_marina_del_rey_land_use_plan_major_

"Conservation & Management Plan, Marina del Rey, August 19, 2010, Hamilton Biological, Inc., page 3-5:

By the mid-1900s, much of Ballona Creek had been excavated and routed through a channel, at first earthen (1920s), then concrete-lined (late 1930s), principally to control floods in the Ballona Valley that regularly destroyed cropland and generally hindered development. The most serious and final impact to lower Ballona Creek and the majority of its natural wetlands came in the early 1960s, with the completion of Marina del Rey, which eliminated nearly all the functional wetlands north of the Ballona Creek channel and left only a small remnant to the south, along Culver Boulevard. However, just as the creation of Marina del Rey development entailed the elimination of certain natural habitats, it created novel ones, with the addition of hundreds of evergreen, semi-tropical, trees, as well as irrigated lawns and man-made structures.

They further state, on pages 3-6 and 3-7:

Following a long history of usage by native peoples, in 1839 the Playa del Rey Estuary became part of a Mexican land grant of 13,920 acres called Rancho La Ballona, with a salt works added in the 1850s and a formal hunting operation in the 1870s (Dukesherer 2009). The area was a popular destination for duck-hunters and small numbers of beach-goers from Los Angeles through the early 1900s, after which time its popularity increased greatly, and human usage of the beaches soared. Well into the 1900s, areas of the wetlands and coastal plain were used for oil extraction, particularly in the historical dune system west of present-day Marina del Rey. Still, vast areas of wetland remained, and duck-hunting continued at several freshwater impoundments along

Washington Boulevard into the 1950s, near the present-day Oxford Basin (Cooper 2005).

After a failed attempt by the Ballona Development Company to convert the estuary into a commercial harbor between 1887 and 1890, and despite a series of governmental reports that found the area unsuitable for the establishment of a major commercial harbor, the U.S. Army Corps of Engineers (Corps) ultimately determined in 1949 that the area could be feasibly developed into a recreational marina. In 1953 the Los Angeles County Board of Supervisors sponsored State legislation that resulted in the County a receiving a $2 million loan from State tidelands oil revenues to pursue purchase of the new harbor site. In 1954, President Dwight D. Eisenhower signed legislation that committed the federal government to provide matching funds to the County to create the marina's main navigational features. Two years later, County voters approved a bond that financed the remainder of the project, and project construction commenced in December 1957.

During the winter of 1962-63, shortly after the harbor's initial opening, Marina del Rey suffered severe storm damage that prompted an emergency program to implement corrective measures already being developed and tested by the Corps. As an interim measure, the County constructed temporary protective sheet-pile baffles at the harbor's entrance, but ultimately the project required a permanent, offshore breakwater. With the federal government and County splitting the $4.2 million cost, construction of the breakwater began in October 1963 and was completed in January 1965. April 10, 1965, marked the formal dedication of Marina del Rey Harbor.

According to the listing from the Los Angeles Regional Water Quality Control Board, the Revised Tributary Tables to the Los Angeles Basin Plan follows this flow and without reference to the BALLONA CREEK WETLANDS:

BALLONA CREEK WATERSHED

Waterbody: BALLONA CREEK ESTUARY
Hydrologic Unit Code: 180701040300
Tributary of SANTA MONICA BAY

Waterbody: BALLONA CREEK REACH 2
Hydrologic Unit Code: 180701040300
Tributary of BALLONA CREEK ESTUARY

Waterbody: BALLONA CREEK REACH 1
Hydrologic Unit Code: 180701040300

Tributary of BALLONA CREEK REACH 2

Waterbody: BALLONA WETLANDS
Hydrologic Unit Code: 180701040300
Tributary of BALLONA CREEK ESTUARY

Waterbody: CENTINELA CREEK
Hydrologic Unit Code: 180701040300
Tributary of BALLONA CREEK ESTUARY

Waterbody: SEPULVEDA CHANNEL
Hydrologic Unit Code: 180701040300
Tributary of BALLONA CREEK ESTUARY

Waterbody: BALLONA LAGOON/VENICE CANALS
Hydrologic Unit Code: 180701040403
Tributary of MARINA DEL REY

Waterbody: GRAND CANAL
Hydrologic Unit Code: 180701040403
Tributary of BALLONA LAGOON

The Coastal Conservancy, on January 19, 2012, approved the issuance of $6,490,000 for environmental studies for the BALLONA WETLANDS RESTORATION without the approval or direction of the County of Los Angeles or the City of Los Angeles. There are General Plans, Community Plans and Specific Plans that should be amended that are not the Coastal Conservancy jurisdiction.

There is also no mention of the pending application to the CALIFORNIA STATE COMMISSION ON MANDATES by the County of Ventura and an implications to the TMDLs and source of responsibility.

There is no mention of the effects of the Southern California Bight, its coastal ecology and retention of plumes from northern and southern tidal flows, along with the scientific studies from NOAA and others regarding sea-level rise, the military and national defense.

You lack the science, measurement and monitoring to proceed with this process.

Joyce Dillard
P.O. Box 31377
Los Angeles, CA 90031

Attachment:

LACDPH Guidelines for Harvesting Rainwater, Stormwater and Urban Runoff for Outdoor Non-Potable Use

Response to Comments on the Total Maximum Daily Loads
for
Ballona Creek Wetlands
December 2, 2011 Public Notice
March 26, 2012

RESPONSE TO COMMENTS

This document includes USEPA's response to comments submitted in response to the December 2, 2011 Public Notice of the Draft Ballona Creek Wetlands TMDL. The comment letter submitted is provided on USEPA Region 9's website with highlighted comment notations added to the original letter to identify the end of each comment (eg., USEPA is responding to the specific comment immediately above the numbered "Comment" in red bold). Any change that is made to the TMDL in response to the comments is indicated in the response. If no change is noted in the response, then no change was deemed necessary in the TMDL. Please see (http://www.epa.gov/region9/water/tmdl/progress.html) for individual comment letters.

17. Joyce Dillard

Response to Comment 1

USEPA believes it necessary to look at both historical and current conditions to fully evaluate the scope of the impairments.

Response to Comment 2

Wetland banking is not a factor in developing TMDLs.

Response to Comment 3

The Consent Decree is relevant because it sets a deadline for establishing the Ballona Creek Wetlands TMDLs. It is included in the administrative record.

Response to Comment 4

TMDLs do not directly permit, or prohibit, the use of any area for offsite mitigation. They only establish maximum pollutant levels for a waterbody.

Response to Comment 5

A TMDL is the calculation of the maximum amount of a pollutant that a waterbody can receive and still safely meet water quality standards. Some TMDLs may be met without reducing existing pollutant loads.

For these TMDLs, USEPA evaluated the contribution of sediment in stormwater runoff (see Section 5, Source Assessment), and developed Wasteload Allocations for sediment and exotic vegetation. These Wasteload Allocations apply to the County of Los Angeles, including the cities covered by the County's Municipal Separate Storm Sewer System (MS4) permit, and Caltrans.

The City of Los Angeles' Low Impact Development Ordinance, and related stormwater guidelines, are tools for addressing stormwater pollution that could reach the Ballona Creek Wetlands and many other waterbodies, but they are not a factor in USEPA's calculation of the amount of sediment currently flowing into the Wetlands, or the establishment of the loading capacity of the Wetlands for sediment or exotic vegetation.

Response to Comment 6

Ballona Creek Wetlands is listed on California's Impaired Waterbodies List in 1998, 2002, 2006, and 2010. All waterbodies identified as impaired on the list are required to have a TMDL completed to assess the sources of pollutants, the pollutant load capacity and the numeric targets and allocations necessary to support water quality objectives and protection of beneficial uses.

Response to Comment 7

USEPA has addressed the pre-development condition of the greater Ballona wetlands complex, and history of their development, including the construction of Marina del Rey. This comment provides some additional information, which is consistent with the information considered and used in USEPA's analysis.

The State's Impaired Waters 303(d) list includes the waterbody "Ballona Wetlands" and "Ballona Creek Wetlands".

Response to Comment 8

These issues do not relate to the development of the TMDLs for the Ballona Creek Wetlands.

Anthony Klecha
Principal Environmental Specialist

555 W. 5th Street
Mail Location GT17E2
Los Angeles, CA 90013

Tel: (213) 244-4339
Fax: (213) 244-8046
Mobile: (213) 393-0568
aklecha@semprautilities.com

Southern California Gas Company

A Sempra Energy utility®

January 27, 2012

Sent via Email

U.S. Environmental Protection Agency
Attn: Cindy Lin (lin.cindy@epa.gov)
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Comments on the Draft Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation

Dear Ms. Lin:

Southern California Gas Company (SoCalGas) appreciates the opportunity to review and comment on the U.S. Environmental Protection Agency's (USEPA's) *Draft Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation* (Draft TMDLs). We understand that the USEPA will be establishing TMDLs for sediment and invasive exotic vegetation for the Ballona Creek Wetlands to address habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation. These wetlands have been divided into three primary areas, composed of Areas A, B, and C. We further understand that the USEPA has included SoCalGas as a responsible party for the established numeric targets and load allocations in this TMDL. Below, please find our comments for your consideration:

Future Notifications

Please include John Thompson on your distribution list in all future notices regarding these TMDLs and any related documents. It is imperative that SoCalGas have ample opportunity to review and respond to any and all future notices and participate in any meetings and discussions pertaining to this matter. John's contact information is provided below.

John A. Thompson, Storage Operations Manager
Southern California Gas Company
8141 Gulana Avenue
Playa Del Rey, CA 90293-7930
Phone: (310) 578-2689
Email: JoThompson@semprautilities.com

Ecological Reserve Boundaries

The Ecological Reserve boundary, as depicted on *Figure 2. Map of Ballona Creek Wetlands Ecological Reserve,* is incorrect, as it encompasses SoCalGas' tank farm within the southern border of Area B. The tank farm property is not owned by the Department of Fish and Game or the California State Lands Commission; rather the property is owned by SoCalGas. Accordingly, the southern boundary line of Area B should be redrawn to exclude SoCalGas' tank farm so that the boundary line matches that shown in Figure 5.

SoCalGas Well Sites within Areas A & B

The number of SoCalGas well sites identified within Areas A and B are incorrect. SoCalGas maintains five (5) monitoring well sites within Area A, and has easements for twelve (12) well sites (1 injection/withdrawal well and 11 monitoring wells) within Area B. It's important to note that vehicular access to these sites is required pursuant to the California Code of Regulations, Title 14, section 1777(f). SoCalGas has no facilities within Area C.

Developed Areas Inappropriately Identified as Unvegetated

Similar to the discrepancy noted above regarding the reserve boundary, *Figure 13. Current habitats observed in Ballona Wetlands Ecological Reserve* also includes SoCalGas' tank farm within the boundaries of the Ecological Reserve. As with Figure 2, this figure should be redrawn to exclude the tank farm, and the corresponding acreage in the legend should be rechecked for accuracy. In addition, SoCalGas recommends that any existing infrastructure (e.g., well sites, roads, levees and parking lots) be labeled as "developed" rather than "unvegetated" so as not to mislead the reader into thinking that these areas are open bare lands readily available for restoration. This infrastructure should also be called out as "developed" in Tables 5 through 7 for the same reason.

Responsible Parties

USEPA has included SoCalGas in its list of the 7 parties that are responsible for the established numeric targets and load allocations for the proposed TMDLs. However, the rationale and proportionality behind this inclusion is unclear. While it's true that SoCalGas owns and operates certain infrastructure within and adjacent to the Ecological Reserve boundaries, the limited impacts associated with this infrastructure and the nature of SoCalGas' activities in relation to the entirety of the impacts that have occurred over the last several decades needs to be recognized and appropriately considered (e.g., as compared to the fill material that was deposited during the construction of Playa Del Rey and the Ballona Creek Flood Channel).

Area C

Table 17. Legacy Sediment Deposit Load Allocations of Ballona Creek Wetlands identifies SoCalGas as having responsible jurisdiction within Area C. This is incorrect as SoCalGas does not own or operate any facilities within this Area. SoCalGas should be removed from the list for Area C.

Ballona Wetland Restoration Project

While we agree that it's important that all responsible entities and other vested interests work collaboratively to achieve this TMDL, we also stress the importance that any future restoration work within the Ecological Reserve take into consideration the existing operations and maintenance activities of SoCalGas' infrastructure that lies both within and adjacent to the Reserve. All future uses, including public access, should be designed such that it's compatible with these ongoing operations.

Should you have any questions or require additional information, please feel free to contact John Thompson at (310) 578-2689.

Sincerely,

Anthony Klecha
Principal Environmental Specialist
Environmental Services Department
Southern California Gas Company

cc: John Thompson, SoCalGas
Jim Mansdorfer, SoCalGas

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RESPONSE TO COMMENTS

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18. Southern California Gas Company

Response to Comment 1

USEPA made the correction.

Response to Comment 2

USEPA included the correct monitoring wells in the TMDL.

Response to Comment 3

USEPA made the correction to Figure 2. USEPA provided further clarification of the term "unvegetated".

Response to Comment 4

USEPA included the SoCalGas because of its property in and adjacent to the Ballona Creek Wetlands. USEPA believes the appropriate restoration measures will require the collaboration of the SoCalGas to achieve the goals of the TMDL.

Response to Comment 5

USEPA removed SoCal Gas from the Cooperative List for Area C since SoCalGas does not own or operate any facilities in said Area.

Response to Comment 6

USEPA agrees.