



# MSAR Bacteria TMDL Task Force Meeting

May 6, 2024

# Review of Tentative Order R8-2024-0001

- Comments on Tentative Order due July 3, 2024
- Task Force submitted comments on Staff Working Proposal in April 2022
- Task Force comments re: Maintain BMP-Water Quality Based Effluent Limitations not accepted
- Tentative Order does not mention or recognize pending Basin Plan Amendment to extend Wet Weather Schedule for Attainment

# Overview of Potential Issues with Tentative Order for MSAR TMDL Task Force

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Effective date of wet weather  
WQBELs versus WLAs

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Applicable waterbodies and  
discharges thereto

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Future Basin Plan Amendments &  
Reopener Provisions

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Broad statements re: Use of  
numeric WQBELs

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Clerical errors

# Effective date of WQBELs based on wasteload allocations



Page 251 (Fact Sheet) – WLAs from Bacteria TMDLs will be effective on date of Order; however, wet weather date for compliance has not yet passed



Page 29 (Order) – WQBELs, compliance required pursuant to applicable compliance schedules



Inconsistent with State Board Orders

See Order WQ 2023-0083  
*“As a quasi-legislative enactment, the basin plan is superior to the waste discharge requirements and other quasi-adjudicatory orders that implement the basin plan.”*

# Applicable Waterbodies

- Table 6-1w of Basin Plan

<b>Middle Santa Ana River Watershed Waterbodies on the 303d List for Bacterial Contamination</b>
Santa Ana River Reach 3
Chino Creek Reach 1
Chino Creek Reach 2
Mill Creek (Prado Area)
Cucamonga Creek Reach 1
Prado Park Lake

# Reopener & Permit Modification Provisions

Provision  
XVIII.A.4.  
(page 85)

Include reference to revised TMDL – not just reconsideration of a TMDL  
Santa Ana Water Board “required” to modify Order consistent with revised WLAs *and* program of implementation

Appendix  
11 (page  
134)

Include footnote to reference re: Wet Weather Bacteria compliance deadline and pending Basin Plan Amendment

Fact Sheet  
(page 251)

Include reference to Triennial Review priority for revision to Bacteria TMDL  
Include reference to pending Basin Plan Amendment to extend wet weather compliance date

# General Comments re: Expression of WQBELs

- Fact Sheet (pages 245-252)
  - Order does not authorize use of BMP-based WQBELs when TMDL compliance date has passed
  - Limiting use of BMP-based WQBELs through WMPs is arbitrary and inconsistent with U.S. EPA Guidance
  - Order makes broad statements and conclusions without consideration of individual TMDLs
    - E.g., “..., the Santa Ana Water Board finds that WQBELs expressed numerically are necessary to address the historic and persistent exceedances of water quality standards in the Santa Ana Region.”
  - Use of numeric WQBELs is inconsistent with MSAR TMDL provisions in the Basin Plan

# Clerical Errors & Clarifications

- Order Provision XII.A.2.a (page 60) – WMP Provisions
  - Align language to include revised TMDLs in proactive preparation of WMPs
  - Clarify 1) NOI (not NOT); and, 2) submit NOI within 90 days from revised TMDL effective date or 90 days from incorporation into Order
- Appendix 11
  - Provision II.A. – clarify applicability to dry weather only
- Fact Sheet (page 230)
  - References 2009 Orange County MS4 Permit
- Others as identified



# Proposed Timeline for Preparation of Comment Letter

