

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION
BOARD REPORT NO.1
March 23, 2007

CD: All

ADOPT THE PROPOSED STREAM PROTECTION ORDINANCE REQUIREMENTS
ATTACHED HEREIN FOR ALL CITY AND PRIVATELY SPONSORED
CONSTRUCTION PROJECTS

RECOMMENDATIONS

1. Approve and forward this report and its transmittal to the City Council with the recommendation that the Council: (a) accept and adopt the proposed ordinance for the protection of the stream systems located within the City of Los Angeles; (b) request the City Attorney immediately prepare an amendment to the existing Los Angeles Municipal Code (LAMC) sections to incorporate the proposed definition of the term "stream."

FISCAL IMPACT STATEMENT

Adoption of this Proposed Stream Protection Ordinance will require additional City staff to implement the intent of the ordinance. A five member inspection staff will be needed to conduct field inspections of the streams; in addition two additional positions of the engineering staff will be needed to handle public inquiries at the City's public offices. The proposed staff could be funded by a new Stream Protection Fee imposed to plan check all new and re-developments in the City to ensure their compliance with the provisions of the Stream Protection Ordinance. The costs of the new staff will be approximately \$535,000.

TRANSMITTALS

1. Draft Stream Protection Ordinance
2. Preliminary Review of Potential Funding Sources for the Stream Protection Ordinance

DISCUSSION

A. Background:

On April 11, 2006 the City Council passed a motion directing a task force (led by Public Works) to report back to council with, among other things, a report on viable alternatives for a revised definition of "stream" for the City's regulations which is all inclusive and protective of the City's diverse watercourses, and that the task force also provide a report regarding a stream protection and restoration ordinance, including pursuing available grant funding for any recommended programs and projects.

A subcommittee of the task force was formed and has prepared this report with its recommendations and its transmittals.

B. Storm water Quality Protection Requirements:

The operation of the City of Los Angeles' (the City) municipal separate storm sewer system (MS4) is regulated by a National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit (Permit). The federal NPDES stormwater program came about as the result of the 1972 and 1987 amendments to the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA). The City's current 5-year Permit was adopted by the Regional Water Quality Control Board - Los Angeles Region (Regional Board) on December 13, 2001 for the County of Los Angeles and the incorporated cities (except Long Beach). The City of Los Angeles and 83 other municipalities are co-permittees and the County of Los Angeles is the principal permittee. The MS4 includes 1,200 miles of storm drain pipe, 86 debris basins, 33,800 catch basins, and 11 pump plants that are spread throughout the City's 465 square miles.

The current Permit contains extensive provisions to meet Water Quality Standards under the CWA, including the implementation of programs to satisfy Total Maximum Daily Load (TMDL) regulations. To date, ten (10) TMDLs have been adopted for the City's four watersheds. These include bacteria for Santa Monica Bay Beaches, Ballona Creek, Marina Del Rey, and Inner Cabrillo Beach; metals for the Los Angeles River and Ballona Creek; nutrient for the Los Angeles River; and toxic sediments for the Ballona Creek Estuary. Approximately fifty additional TMDLs must be adopted by 2012 per the implementation schedule that resulted from the federal Consent Decree between environmental advocacy groups and the United States Environmental Protection Agency (USEPA).

Each TMDL requires two specific plans; (1) a compliance monitoring plan and (2) a compliance implementation plan. Since TMDLs are issued on a watershed- wide basis, the implementation plans need to be prepared jointly by all municipalities in the watershed. Thus, it is prudent to develop a stakeholder-driven Water Quality Strategic Master Plan (WQSMP) to comply with all impairments that exist in each of the City's four watersheds: (1) Los Angeles River, (2) Ballona Creek, (3) Santa Monica Bay, and (4) Dominguez Channel.

Streams and water bodies within the City of Los Angeles are a valuable resource to the City. They are an integral part of the watershed and contribute to the water supply system; they remove water pollutants and improve water quality, provide flood control and storm water drainage, are vital to wildlife habitat, and create neighborhood beauty and improved quality of life.

From a water quality standpoint, streams with adequate buffer zones can remove, for example, 50-99% of total nitrogen, and 63-89% of Total Suspended Solids. These pollutants are subject to regulatory control.

The MS4 also requires the City of Los Angeles to prevent increases in flood peaks and stream velocities. Natural watercourses with adequate buffers help address that requirement.

C. Historic Trend of Adverse Impacts to Streams

There has been a 90% loss of streams and wetlands. Where there were once approximately 220 miles of stream system within the City boundary, at present less than 40 miles of the stream systems are in semi natural state. Rapid growth has adversely impacted the City's stream system to a great extent. A significant amount of natural eco-system and habitat have been impacted and have been replaced or modified due to projects developed by the City and/or general public. Without regulation sufficient to protect and preserve the remaining riparian eco-systems in their natural state, there exists a potential of losing the remaining natural streams in the near future.

Stream buffers serve as natural boundaries between local waterways and existing development. They help protect water quality by filtering pollutants, sediment, and nutrients from runoff. Other benefits of buffers include groundwater recharge, habitat, wildlife migration corridors flood control, stream bank stabilization, stream temperature control, and room for lateral movement of the stream channel.

D. Proposed Stream Protection Ordinance

The proposed ordinance will create a structure to allow for reasonable development while protecting the eco-systems in a natural condition and to restore deteriorating streams wherever an opportunity may exist. The ordinance would authorize Department of Public Works and other City departments to work to identify any potential development projects in the close proximity to the streams and impose necessary safeguards onto the projects as to maintain safe distances and not to encroach within the setback zones of these sensitive areas.

The intent of the ordinance is to: (1) protect a valuable natural resource; (2) protect and maintain the existing ephemeral, perennial, intermittent or seasonal streams located within the City of Los Angeles; (3) protect and maintain native vegetation in riparian and wetland areas by implementing specifications for the establishment, protection, and maintenance of vegetation along stream systems and/or water bodies within the City of Los Angeles.

The main features of the proposed ordinance are:

- Establishes importance of streams
- Provides definition of stream
- Creates 100 foot setback with enforcement program and penalties
- Prohibits certain types of structures or development within the setback (buffer)
- Disallows armoring and encourages infiltration
- Discourages drainage of hillsides by pipes or hardened structures
- Requires mapping of streams
- Requires an analysis of the potential for retrofits and funding for the study

The effort was conducted through a committee which consisted of representatives from the Board of Public Works, Council Districts 5 and 11, the Bureau of Engineering, Bureau of Sanitation, Building and Safety, the office of the City Attorney, the

Environmental Affairs Department, and The Santa Monica Bay Restoration Commission. Advisory input was provided by Heal the Bay and the Santa Monica Bay Keeper, and others. Some of the source documents that included the City of Oakland Stream Protection Ordinance, the USEPA model stream protection ordinance, and other technical documents.

The ordinance also proposes to establish a new Stream Protection Fee to defray the cost of implementing the provisions of the Ordinance. This Ordinance will assist with implementation and compliance of the TMDLs to protect the Los Angeles and adjacent watersheds in preventing pollution of the groundwater – a potential drinking water source.

FUNDING

It is requested that the City Attorneys' office investigate a Stream Protection Fee, imposed during the plan check (Including inspection and enforcement) of all new and re-developments in the City to ensure their compliance with the provisions of the Stream Protection Ordinance. The Stream Protection Fee could be used to fund the additional staff member positions discussed above.

A Stream management fee is proposed for all properties that encroach into riparian buffer of a stream. A maintenance fee in the order of \$50 per square foot of impervious area and not to exceed a maximum of \$15,000 per year may be assessed as a maintenance fee to offset stream maintenance costs, maintain devices to meet current and future water quality requirements. The fee may be charged to the property owners who may be granted a variance to encroach into the stream setback (riparian buffer) area who are likely to impact stream beds. The collected fees may be split in two portions – 30% may be used for water quality improvement BMPs and maintenance of those BMPs to help the city meet water quality standards, and the 70% may be used for incentive grants to assist streamside property owners to restore streams by remodeling or constructing away from the stream setbacks and to pay for streamside property acquisitions and properties subject to takings. This maintenance/management fee would also serve as an incentive to avoid development in the buffer or to maximize setbacks during remodel to reduce fee substantially.

In addition, the Environmental Affairs Department has researched grant funding sources. They are presented in the attached chart entitled Preliminary Review of Potential Funding Sources for the Stream Protection Ordinance.

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Respectfully submitted,

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