

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – OFFICE OF CHIEF COUNSEL
July 19, 2006**

ITEM 8

SUBJECT

Consideration of a resolution setting aside the adoption of State Water Resources Control Board (State Water Board) Resolution No. 2002-0038, adopted by the State Water Board on February 19, 2001, establishing no trash as the total maximum daily load (TMDL) of trash allowed to be discharged into the Los Angeles River.

DISCUSSION

Recently, the California Court of Appeal determined that the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and State Water Board did not comply with all of the requirements of the California Environmental Quality Act (CEQA) when they adopted and approved the Basin Plan Amendment incorporating a TMDL for trash in the Los Angeles River. The court ordered the State Water Board to set aside its approval of the TMDL. The Court upheld the TMDL in all other respects. This resolution would set aside the approval of the TMDL and remand it to the Los Angeles Water Board for action and reconsideration consistent with the Court's opinion.

POLICY ISSUE

Does the attached Resolution comply with the Court's order?

FISCAL IMPACT

Yes. The Los Angeles Water Board will have to expend staff time rewriting the substitute CEQA documentation, noticing it for the Los Angeles Water Board's and the State Water Board's consideration, and seeking approval by the Los Angeles Water Board and the State Water Board. This will involve staff time.

REGIONAL BOARD IMPACT

Yes. Los Angeles Water Board staff will be required to expend staff time to comply with the Court's order.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2006 -

RESOLUTION SETTING ASIDE THE ADOPTION OF AN AMENDMENT TO THE
WATER QUALITY CONTROL PLAN
FOR THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD
INCORPORATING A
TOTAL MAXIMUM DAILY LOAD FOR TRASH FOR THE LOS ANGELES RIVER

WHEREAS:

1. The California Court of Appeal issued an opinion on January 26, 2006, which upheld in most respects actions taken by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and the State Water Resources Control Board (State Water Board) when they adopted and approved a Total Maximum Daily Load (TMDL) for trash in the Los Angeles River. The Court disapproved of the California Environmental Quality Act (CEQA) analysis prepared by the Los Angeles Water Board, and issued a writ of mandate that orders the California Water Boards to set aside the TMDL, until it has been brought into compliance with CEQA. A return to the writ must be filed by July 24, 2006.
2. The trial court originally issued an order that granted a petition for writ of administrative mandamus in the matter of *The Cities of Arcadia, et al. v. State Water Resources Control Board*, Case No. GIC803631. As ordered by the Court, State Water Resources Control Board Resolution No. 2002-0038 is hereby set aside. The TMDL for trash in the Los Angeles River is remanded to the Los Angeles Water Board.
3. The Los Angeles Water Board is directed to revise and reconsider its CEQA compliance as required by the decision of the Court of Appeal.

This Resolution is not precedential.

THEREFORE BE IT RESOLVED THAT:

State Water Resources Control Board Resolution No. 2002-0038 is set aside and remanded for further proceedings consistent with this Resolution.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 19, 2006.

DRAFT

Song Her
Clerk to the Board