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DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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IN REPLY PLEASE

REFER TO FILE:

WM-9

Mr. Samuel Unger, P.E.
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Attention Man Voon

Dear Mr. Unger:

COMMENT LETTER – BALLONA CREEK AND LOS ANGELES RIVER TRASH TOTAL MAXIMUM DAILY LOAD REVISIONS

The County of Los Angeles and the Los Angeles County Flood Control District appreciate the opportunity to provide comments on the proposed amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) as part of the reconsideration of the Los Angeles River and Ballona Creek Trash 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 ageorge@dpw.lacounty.gov or your staff may contact Mr. Paul Alva at (626) 458-4325 or palva@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

ANGELA R. GEORGE
Assistant Deputy Director
Watershed Management Division

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Enc.

**COMMENTS BY THE COUNTY OF LOS ANGELES AND
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT
ON THE PROPOSED AMENDMENTS TO THE BASIN PLAN TO
REVISE THE TOTAL MAXIMUM DAILY LOADS FOR TRASH IN
THE LOS ANGELES RIVER AND BALLONA CREEK WATERSHEDS**

The County of Los Angeles (County) and the Los Angeles County Flood Control District (LACFCD) appreciate the opportunity to comment on the Proposed Amendments to the Los Angeles Regional Water Quality Control Board's (Regional Board) Basin Plan as part of the reconsideration of the Los Angeles River and Ballona Creek Trash Total Maximum Daily Loads (TMDLs). Due to the fact that trash in our waterways is a concern, both the County and the LACFCD have dedicated enormous resources to reduce the amount of trash in our lakes, streams, and rivers. Examples of these programs include:

- a. In 2008, the County embarked on a large-scale project to retrofit its catch basins with full capture systems. Moreover, where feasible, the County has been installing partial capture systems in conjunction with the full capture systems; the addition of partial capture systems helps improve performance and prolong the operating life of the full capture systems. As of September 30, 2014, the County had retrofitted 4,134 catch basins in the Los Angeles River Watershed and 365 catch basins in the Ballona Creek Watershed. To date, approximately \$8 million have been spent on this effort. Moreover, the County contracts with the LACFCD to routinely inspect and clean out the capture systems as well as perform necessary repairs. Additional efforts are currently underway to retrofit the small number of remaining catch basins the County is responsible for in these two watersheds.
- b. The County has embarked on other trash control efforts. In 2007, the County began replacing its open-market trash collection system with a robust "franchise system". Under a franchise system, trash haulers are required to enter into agreements with the County to provide improved trash collection services, including automated containers with lids, litter cleanup activities, and community cleanup events. The County also implements a street sweeping program above and beyond the requirements of the MS4 Permit. Implementation of these collective efforts ensures that its streets are consistently clean.
- c. The LACFCD has played an active role in working with the County and the cities to facilitate the implementation of trash control measures where feasible. For example, in April 2010, the LACFCD adopted a Structural Best Management Practice Policy to facilitate the implementation of full and partial capture systems while continuing to ensure the flood control function and hydraulic capacity of catch basins. The Policy outlines the LACFCD permitting process, including submittal requirements, and requires the applicant to enter into an agreement with the LACFCD for the applicant to assume the responsibility for maintenance and repair of full or partial capture systems as well as removal and disposal of materials captured by these systems. In late 2010, the LACFCD issued letters to all the cities to clarify the Policy in response to questions that had been raised.

d. In February 2014, the LACFCD hosted a workshop to guide cities through the catch basin retrofit permitting process. The workshop was attended by over 75 people representing 45 cities. The LACFCD also maintains webpages (accessible through <http://dpw.lacounty.gov/permits/>) that clearly describe the permitting process and provide all pertinent documents related to catch basin retrofits in a central location. Finally, to ensure prompt customer service and an efficient permitting process, the LACFCD has dedicated staff available to answer any questions cities may have regarding the installation and maintenance of the trash capture systems. As a result, since 2010, the LACFCD has issued permits to 30 cities to retrofit a total of over 16,000 catch basins.

Below are the County's and LACFCD's specific comments on the Proposed Amendments. The comments are organized as follows:

- Comments by the County
- Comments by the LACFCD
- Comments by both the County and the LACFCD

COMMENTS BY THE COUNTY

1. The Proposed Amendments lack studies that have determined the threshold levels of trash needed to protect beneficial uses

The Proposed Amendments are meant to address final implementation of the Los Angeles River and Ballona Creek Trash TMDLs. The Proposed Amendments lack the levels of trash reduction needed to meet beneficial uses. Until this study is performed, the analytic basis for the TMDLs and the Proposed Amendments remains missing. This has particular importance as the implementing parties approach full compliance.¹

These TMDLs include a requirement that they be reconsidered after achieving 50 percent of the Baseline Waste Load Allocation because, at the time reconsideration was mandated, no study had been performed to determine if 100 percent reduction was feasible or necessary. The parties recognized that as implementing parties approached 100 percent reduction, there would be circumstances where achievement could become technically infeasible or unduly

¹ Reconsideration of the Los Angeles River and Ballona Creek Trash TMDLs after achieving 50 percent of the Baseline Waste Load Allocation is mandated by the settlement of a lawsuit between the Regional Board, State Water Resources Control Board, Heal the Bay, NRDC, the Santa Monica Baykeeper, the City of Los Angeles, the County of Los Angeles, and the Los Angeles County Flood Control District. Under the settlement, the reconsideration is to be based on studies regarding the threshold levels needed for protecting beneficial uses. (Settlement Agreement, Attachment A, p. 19.) Its purpose is to determine if zero trash is feasible both from a technical and cost perspective.

costly. Reconsideration was included in the TMDLs after achieving a reduction of 50 percent to determine if 100 percent reduction was necessary or appropriate in light of the technical and cost constraints.

As implementation has approached 100 percent reduction, the County is experiencing both significant success and technical constraints. Although the County has retrofitted nearly 100 percent of the applicable catch basins, it is technically infeasible to retrofit with full or partial capture devices some of the remaining, few catch basins due to their configuration. (The County has shared this information with Regional Board staff.)

There has been no study to determine the trash reduction levels necessary to support beneficial uses. (The Staff Report cites a study of plastic objects and fragments, but not other types of trash. Attachment A to the Staff Report discusses impacts from trash but does not address the level of reduction necessary to support beneficial uses.) No study is cited that addresses the levels of trash necessary to protect the beneficial uses in these water bodies.

2. The requirements in the proposed alternative compliance option for full capture systems are excessive and not necessary

As discussed above, the County has implemented the Trash TMDLs' requirements on all the catch basins that can be retrofitted, and it is technically infeasible to retrofit a small number of catch basins. In the context of municipal stormwater, "maximum extent practicable" (MEP) is the standard to which technology-based effluent limitations are held. Although compliance through catch basin inserts would traditionally be considered for implementation of technology-based effluent limitations, the MS4 Permit specifically applies this approach in this context although the Los Angeles River and Ballona Creek Trash TMDLs requirements are water quality-based effluent limitations. The additional actions, described on pages 4 and 5 in both Proposed Amendments, are excessive and unnecessary. There is nothing in the record to support the justification for additional requirements. Additionally, waiting for a determination regarding the alternative compliance creates a significant amount of uncertainty for Permittees.

The Regional Board should find that a Permittee is in compliance with the Trash TMDLs when a Permittee has retrofitted all the catch basins that are technically feasible to be retrofitted, and the Executive Officer concurs with the Permittee's determination of technical infeasibility.

3. If the Regional Board does not accept Comment 2 above, it should extend the TMDLs' final compliance deadlines or incorporate the Proposed Amendments into the current MS4 Permit before September 2016

Although the Proposed Amendments provide an alternative compliance option for full capture systems, for it to be truly meaningful, the alternative compliance option needs to take effect before the Trash TMDLs' final compliance deadlines.

As discussed above, the County has spent approximately \$8 million to retrofit all of its catch basins in the Los Angeles River and Ballona Creek Watersheds with full capture systems where technically feasible, and in many instances has gone above and beyond the requirement of the Trash TMDLs to further enhance the performance of these systems. Nevertheless, it is our understanding that the Regional Board currently does not intend to incorporate the Proposed Amendments into the current MS4 Permit until its renewal in December 2017 at the earliest.

We urge the Regional Board to exercise its discretionary authority to find, in its findings to adopt the Proposed Amendments, that no further actions are required where a Permittee has retrofitted all of its catch basins with full capture systems where technically feasible. Otherwise, the Regional Board should (1) extend the final compliance deadline for Los Angeles River by two years to September 2018 or (2) work with the State Water Resources Control Board, the State Office of Administrative Law, and the United States Environmental Protection Agency to expedite the promulgation of the Proposed Amendments and incorporate them into the current MS4 Permit before September 2016.

4. Receiving water monitoring should be revised relative to full capture systems

a. Monitoring should not be required of parties in full compliance

The receiving water monitoring requirement in the Proposed Amendments is currently applicable to all Permittees subject to the Trash TMDLs, including those that have implemented full capture systems. Such monitoring is not necessary for those permittees in full compliance through installation of full capture devices.

According to the Staff Report for the Proposed Amendments, one of the goals of receiving water monitoring is to identify instances where full capture systems are not being properly operated or maintained. Because Permittees are already required to document their inspections and maintenance of full capture systems a potentially more direct and effective way to ensure proper maintenance is through regular review of these records along with periodic audits by the Regional Board.

To reaffirm the compliance certainty associated with the full capture system compliance option, the Proposed Amendments should be revised to clarify that receiving water monitoring is not applicable to Permittees implementing the full capture system compliance option. This would also be consistent with the statewide Trash Amendments approved by the State Water Resources Control Board on April 7, 2015.

If the Regional Board chooses to apply receiving water monitoring to all Permittees, as clarification, the reference to “Los Angeles County, City of Long Beach and Caltrans MS4 Permittees” under the Receiving Water Monitoring Section in the Proposed Amendments should be revised to say “Permittees under

the Los Angeles County MS4 Permit, the City of Long Beach MS4 Permit, and the Caltrans Stormwater Permit”.

- b. If monitoring is required, the Proposed Amendments should provide flexibility in the monitoring programs’ design and implementation

If the Proposed Amendments require receiving water monitoring, the amendments should allow flexibility in the design and implementation of the receiving water monitoring programs. As currently written, the Proposed Amendments require monitoring to be conducted in accordance with the Surface Water Ambient Monitoring Program’s (SWAMP) Rapid Trash Assessment Protocol. However, it is our understanding that the Protocol has not provided the desired data to support management decisions, and that the State Water Resources Control Board provided the Bay Area MS4 Permittees with a Proposition 84 grant to evaluate other options for trash monitoring. This study is ongoing. In light of the difficulties in conducting trash monitoring, and the problems associated with the SWAMP protocol, we request that the Proposed Amendments be revised to give Permittees the flexibility to propose an alternative approach to conduct receiving water monitoring subject to approval by the Executive Officer.

5. The Staff Report incorrectly shows that the County was not in compliance with the Ballona Creek Watershed Trash TMDL

Page 10 of the Staff Report indicates that 84.4 percent and 88.0 percent of the County’s catch basins in the Ballona Creek Watershed had been retrofitted by the 2012-2013 and 2013-2014 Reporting Years, respectively. These percentages appear to result from using a baseline different from the original baseline of 310 catch basins to be retrofitted. Although more catch basins have been discovered or installed since the original baseline, and the County continues to retrofit these new catch basins, it is not appropriate to include them in determining compliance. It would be more appropriate to calculate compliance using the original baseline of 310 catch basins.

According to the County’s 2012-2013 MS4 Permit Annual Report, 349 catch basins had been retrofitted at that time. Therefore, the County respectfully requests that the Staff Report be revised to reflect that the County is in full compliance with the Ballona Creek Trash TMDL as shown below. It is worth noting that all catch basins identified as of 2014 (beyond the original 310 baseline) have now been retrofitted in advance of the September 2015 final compliance deadline.

Permittee	2012-2013 Reporting Year (10% of Baseline)				2013-2014 Reporting Year (3% of Baseline)			
	Full Capture System (FCS)		Partial Capture and Institutional Controls (PCIC)		Full Capture System (FCS)		Partial Capture and Institutional Controls (PCIC)	
	% FCS	Compliance	% Trash Reduced	Compliance	% FCS	Compliance	% Trash Reduced	Compliance
Los Angeles County	84.4% 100%	No Yes	N/A	N/A	88.0% 100%	No Yes	N/A	N/A

6. Final compliance with Load Allocation should be clarified and acknowledge those responsible agencies already implementing robust trash collection programs

As currently written, the compliance demonstration criteria in the Proposed Amendments do not take into account a responsible party's current level of effort and may unreasonably increase a responsible party's trash collection effort without any commensurate benefit. Specifically, the Proposed Amendments require all responsible parties to quantify the amount of trash collected and to show a decreasing trend in the amount of trash being collected. (Proposed Amendments, pp. 7-9) These requirements fail to give credit to those parties, including the County, that already implement a rigorous trash collection program.

Currently, the County collects trash daily (364 days per year, except Christmas Day) at Crescenta Valley and Pamela County Parks to ensure that no trash is left on the ground immediately following each collection event. In addition, during heavy use days in the summer, the County implements a "Parks After Dark" program where an additional round of trash collection is carried out, resulting in two trash pick-ups in one day. At Santa Anita and Whittier Narrows Golf Courses, daily inspections are conducted and, if present, trash is collected immediately. All County parks and golf courses have trash cans which are emptied daily.

As such, we request the following revision to the Nonpoint Sources provision of the Proposed Amendments to exempt those responsible parties that already implement a rigorous trash collection program, as determined by the Executive Officer, from the requirement to quantify the amount of trash collected:

c) Compliance for entities responsible for open space and parks is determined by the following criteria:

i) The assessment performed immediately after each collection event shall demonstrate that no trash remains.

ii) The trash amount accumulated between collection events in open space and parks shall not exceed the LAs of 640 gallons per square mile per year (gal/mi²/yr) and shall show a decreasing trend.

iii) *Responsible entities shall increase the frequencies of collection and/or implement additional BMPs, should trash amount collected at collection events not indicate a decreasing trend.*

iv) Responsible entities already implementing a daily trash inspection/collection program and are in compliance with Part (i) above shall be exempt from Parts (ii) and (iii).

In addition, the final Load Allocation compliance of “100% reduction of trash from baseline load allocation” is ambiguous and subject to interpretation (Proposed Amendments, Table 7-2.5). One could interpret it to mean that zero trash shall accumulate in the recreational facilities between collection events, which would be not only inconsistent with the compliance demonstration described elsewhere in the Proposed Amendments but also impracticable. For consistency with other Trash TMDLs (i.e., Malibu Creek, Machado Lake, and Legg Lake), we recommend modifying the language in Table 7-2.5 as indicated below:

Task No.	Task	Date
1	Baseline Load Allocations in Effect	Effective date of the reconsideration of the Los Angeles River Trash TMDL
2	Submit Minimum Frequency Assessment and Collection (MFAC) Program Plan	Upon enrollment in Conditional Waiver of WDR for trash
3	Achieve final load allocations by implementing an Executive Officer-approved MFAC program 100% reduction of trash from baseline load allocations	Within 6 months of the Executive Officer’s approval of the MFAC program Three years from effective date of the reconsideration of the Los Angeles River Trash TMDL

7. Wrigley Green Belt is not a County facility

In Table 7-2.4 of the proposed revised Los Angeles River Watershed Trash TMDL, the County is listed as the responsible entity for Wrigley Green Belt. Wrigley Green Belt is a City of Long Beach project. An agreement between the City and the LACFCD is currently being processed and upon completion of the project in summer 2016 the City will be responsible for maintaining the area. As such, the County requests that the table be corrected to show that the City of Long Beach is responsible for Wrigley Green Belt.

COMMENTS BY THE LACFCD

1. Requirements on the LACFCD should be consistent with the requirements in the MS4 Permit and the Santa Monica Bay Debris TMDLs

Based on communication with Regional Board staff, it is our understanding that the role of the LACFCD in the Proposed Amendments is intended to be the same as that in the current MS4 Permit and the Santa Monica Bay Debris TMDL. However, as currently written, the Proposed Amendments would make the LACFCD responsible for cleaning and maintaining catch basins in areas subject to TMDLs, whereas existing regulations give those responsibilities to Permittees assigned a Waste Load Allocation (See MS4 Permit Part VI.D.4.c.vii(3), page 78 and Santa Monica Bay Debris TMDL, page 6).

Therefore, we request that the Implementation Elements of the Proposed Amendments be revised as follows:

"The Los Angeles County Flood Control District (LACFCD) is not assigned Waste Load Allocations . . . However, the LACFCD is responsible for performing storm drain operation and maintenance, including: ~~catch basin inspection and cleaning; open channel maintenance that includes removal of trash and debris~~"

2. Debris booms were installed by the LACFCD

Pages 11 and 12 of the Staff Report incorrectly indicate that the debris booms in the Los Angeles River Estuary and the Ballona Creek Estuary were installed by the County. We request that the Staff Report be revised as follows.

"~~The County of Los Angeles~~ Los Angeles County Flood Control District has installed a debris boom near the mouth of the Los Angeles River Estuary at the Ocean Boulevard Bridge. This boom was installed in 2000 and its performance was fully optimized in 2007-08. Even after optimization, the boom was designed to capture a certain design flow withstand typical flow volumes at the location of the debris boom and capture floatable debris present in those flows while bypassing the higher water flows due to flooding concerns. The collected trash and other debris is gathered for disposal, but not separated or sorted. From April 2013 to ~~April~~ March 2014, ~~the County of Los Angeles Public Works Maintenance collected roughly 1,200 tons of debris from the Los Angeles River Estuary were collected as a result of the debris boom on behalf of the Los Angeles County Flood Control District.~~ Observations indicated that most of the debris was vegetation with smaller amounts of trash including plastics, packaging, etcetera (Naing, Win, County of Los Angeles Department of Public Works, February 24, 2015, personal communication).

The ~~County of Los Angeles~~ Los Angeles County Flood Control District has also installed a debris boom near the mouth of the Ballona Creek Estuary

~~downstream of Lincoln Boulevard Bridge. Like the Los Angeles River debris boom, this boom is only designed to capture a certain design flow withstand typical flow volumes at the location of the debris boom and the trash debris is gathered for disposal but not separated or sorted. From April 2013 to April 2014, the County of Los Angeles Public Works Maintenance collected In 2014, roughly 6 tons of trash debris were collected from Ballona Creek Estuary, and. It was observed that most of it was vegetation with smaller amounts of trash including Styrofoam, plastics, packaging, etcetera. County of Los Angeles Public Works Maintenance observed and that the proportion of trash to vegetation was higher in Ballona Creek than the Los Angeles River (Naing, Win, County of Los Angeles Department of Public Works, February 24, 2015, personal communication).~~

COMMENT FROM BOTH THE COUNTY AND THE LACFCD

1. The Plastic Pellet Monitoring section in the proposed revised Los Angeles River Watershed Trash TMDL should be expanded to clearly indicate the responsibilities of MS4 Permittees

Page 39 of the Staff Report describes three categories of MS4 Permittees in terms of their respective roles and responsibilities related to the Plastic Pellet Monitoring and Reporting Plan (PMRP). Unfortunately, this discussion is currently absent in the proposed revised Los Angeles River Watershed Trash TMDL, which leaves the Permittees' roles are ambiguous and open to interpretation. To help clarify, we request that the following language from the Staff Report be incorporated on page 10 of the proposed revised Los Angeles River Watershed Trash TMDL.

"MS4 Permittees will fall into one of the following three categories for requirements of a PMRP:

- 1. MS4 Permittees that have industrial facilities or activities related to the manufacturing, handling, or transportation of plastic pellets within their jurisdiction must prepare a PMRP.*
- 2. Responsible jurisdictions that have no industrial facilities or activities related to the manufacturing, handling, or transportation of plastic pellets may not be required to conduct monitoring at MS4 outfalls, but must have a response plan in place to address plastic pellet spills. If satisfactory documentation is provided that shows there are no industrial facilities or activities related to plastic pellets within the jurisdiction, the responsible jurisdiction may be excused of the requirement to monitor MS4 outfalls. LACFCD will be in this category.*
- 3. Responsible jurisdictions that only have residential areas within their respective jurisdictions, and have limited commercial or industrial transportation corridors (including railways and roadways), may be exempted from the requirements of preparing a PMRP. In order for a*

responsible jurisdiction to be exempted from this requirement, sufficient documentation including municipal zoning plans must be submitted to the Regional Board and approved by the Executive Officer.”