



May 18, 2015

Mr. Samuel Unger, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013  
ATTN: Man Voong

*Via email:*

Samuel.Unger@waterboards.ca.gov; Deborah.Smith@waterboards.ca.gov;  
Renee.Purdy@waterboards.ca.gov; Jenny.Newman@waterboards.ca.gov;  
losangeles@waterboards.ca.gov

**Re: Proposed Amendments to the Water Quality Control Plan for the Los Angeles Region to revise the Los Angeles River Watershed Trash TMDL and Ballona Creek Watershed Trash TMDL**

On behalf of Los Angeles Waterkeeper (“Waterkeeper”), I submit the following comments on the *Proposed Amendments to the Water Quality Control Plan for the Los Angeles Region to revise the Los Angeles River Watershed Trash TMDL and the Ballona Creek Watershed Trash TMDL* (“Proposed Amendments”). Waterkeeper has strongly supported the implementation of both the Los Angeles River Watershed and the Ballona Creek Watershed Trash TMDLs (“Trash TMDLs”). Waterkeeper, along with Heal the Bay, was a major proponent of the original Los Angeles River Trash TMDL adopted by the regional Board in 2001. We also helped negotiate the definition of full capture device with the Regional Board, LA County, and City of LA.

**I. Introduction**

Despite efforts to control trash in the watershed since the adoption of the Trash TMDLs the continued presence of trash in the Los Angeles River and Ballona Creek is well documented and remains a threat to water quality and attainment of beneficial uses. Our staff and volunteers have witnessed the excessive presence of trash in local waters including Los Angeles River tributaries, Arroyo Seco and Compton Creek, and Ballona Creek during annual river cleanup days organized by Friends of the Los Angeles River and during Waterkeeper’s routine monitoring activities in recent years. Los Angeles Waterkeeper has also directly monitored trash by using of the Rapid Trash Assessment protocol in sections of the Los Angeles River as part of the Bight 13 Urban Rivers Trash Assessment, to be released in fall 2015. Additionally, Waterkeeper volunteers have conducted pre-production plastic pellet monitoring at beach locations in the Santa Monica bay and have visually inspected over forty industrial facilities known to be using pre-production plastic pellets in the watershed for uncontained and exposed spills of materials.

The Los Angeles River and Ballona Creek host a diverse and growing set of recreational activities. At various reaches of the rivers people bike, jog, horseback ride, bird-watch, wade, photograph, swim, fish, and kayak. There are also numerous species of fish, birds and wildlife that spawn, migrate and live in on our urban rivers. No doubt trash has tremendously impacted and continued to impact these beneficial uses.

We generally support the success of the Trash TMDL and applaud cities that have made serious efforts to reduce trash loads. However we have some serious concerns regarding new proposed alternative compliance methods for agencies using full capture systems (FCS) exclusively, and those demonstrating effectiveness of partial capture devices and institutional controls using the mass balance approach. Our concerns and suggested changes to the Proposed Amendments are detailed below.

## **II. Comments on Proposed Amendments to Trash TMDLs**

### ***MS4 Compliance with Los Angeles River and Ballona Creek Trash TMDLs to Date***

The Staff Report to the Proposed Amendments summarizes the current compliance status of responsible agencies in Table 1 and Table 2. Waterkeeper recognizes the efforts made by permittees that are on track with interim WQBELs as of the 2013-2014 reporting year. However, we are alarmed by the number of responsible agencies known to not be in compliance with interim WQBELs and the almost equal number of responsible agencies where the compliance status is undeterminable based on the data provided to the Regional Board. With only a few years left before the final compliance deadline of both Trash TMDLs, it is crucial that permittees make every effort to meet interim WQBELs. Overall the compliance status for between a third and half of all permittees is unknown (Staff Report, pg.8). To address this significant information and compliance gap, the Regional Board should provide written notices to the approximately 20 permittees with undetermined compliance, outlining the deficiencies in or lack of data provided to determine compliance with interim WQBELs.

### ***The Proposed Assignment of a Waste Load Allocation to Los Angeles Flood Control District is Appropriate***

We support the clarifying language proposed in the Proposed Amendments to identify Los Angeles County Flood Control District as a separate responsible agency in both the Ballona Creek Trash TMDL and the Los Angeles River Trash TMDL. Given the flood control district's responsibilities for performing storm drain operation and maintenance, including catch basin inspections and cleaning, and open channel maintenance that includes removal of trash and debris, it is necessary that the agency be named as a responsible agency in the Trash TMDLs.

### ***Waterkeeper Supports a Pre- Production Plastic Pellets Monitoring Program Requirement in the Los Angeles River Trash TMDL***

Waterkeeper supports the Proposed Amendments' introduction of plastic pellet monitoring requirements to the Los Angeles River Trash TMDL. We believe requiring a plastic pellet monitoring program is a positive step towards addressing small and micro plastic pollution in our local waterways.

### ***Waterkeeper Supports Assigning Load Allocations for Recreational Facilities and Open Space***

Parks and recreational facilities are significant generators of litter and trash. In most cases trash generated at recreational facilities in the Los Angeles River and Ballona Creek Watersheds enters the creek and river via the MS4 system, however where recreational facilities are adjacent to waterways, wind and direct deposition are likely to act as additional transport mechanisms. For these reasons we support the assignment of load allocations to specific responsible entities that own and/or operate recreational areas and open space immediately adjacent to the Los Angeles River and its tributaries, and Ballona Creek in the Proposed Amendments. Secondly, we believe all educational facilities with recreational space adjacent to the Los Angeles River and Ballona Creek should also be named as responsible entities so that the existing load allocation of zero trash discharged would apply to these entities in the same manner as parks and other recreational facilities.

A wide variety of methods to alleviate nonpoint source trash contributions from recreational areas and open spaces to the Los Angeles River and Ballona Creek exist, as outlined in the Staff Report on page 32. In addition to these institutional controls and BMP measures, we encourage the adoption of region-wide source control measures and policies such as the “Bag Ban” and Styrofoam bans by agencies as part of their MFAC/BMP Programs and trash abatement strategies. While several cities in Los Angeles County and the County of Los Angeles have ordinances banning single-use plastic bags, fewer have an outright ban on the use of foamed plastics by restaurants and convenience markets. Today, foamed plastics continue to plague our waterways. For example, after any typical or even minor rain event one can easily observe in Ballona Creek a high water line of foamed plastic along the river banks. See Attachment A, Figures 1 – 3. We would also like to emphasize the importance of trash receptacles along river walkways and bike paths and effective enforcement of anti-litter and dumping laws. Through our persistent monitoring efforts, we have observed first hand that direct littering remains an ongoing problem in specific locations along river walkways, indicating trash receptacles and litter enforcement is needed. See Attachment A.

## **II. Concerns Regarding Proposed Alternatives for Demonstrating Compliance**

### ***The Alternative for Demonstrating Compliance for Permittees Using Full Capture System Approach is Inadequate and Should be Modified***

For municipalities and agencies choosing to implement the Los Angeles River Trash TMDL or Ballona Creek Trash TMDL by retrofitting all catch basins with full capture systems (FCS), we believe only in the case of proven technical infeasibility may an agencies be allowed to demonstrate compliance above 98% using alternatives to FCS. We recognize that as agencies have gotten close to installing FCS on 100% of catch basins in their jurisdiction, some Permittees have found that there are catch basins for which retrofitting with a FCS, or partial capture device, is technically infeasible and there is a need for an alternative compliance demonstration option. The Proposed Amendments offer a way for agencies to navigate this situation in order to reach final reduction from Baseline WLAs by “evaluating the feasibility of partial capture devices and potential to install FCS or partial capture devices along the storm drain or at the MS4 outfall downgradient from the catch basins.” We feel this proposed alternative compliance option is inadequate for agencies using FCS exclusively. In situations where agencies have installed FCS

on the vast majority (greater than 98%) of catch basins and FCS and partial capture device retrofits are technically infeasible, responsible agencies should be required to do more than just evaluate the potential for partial capture and outfall retrofits, they should be required to also implement these controls where possible.

We believe that agencies choosing the full capture system approach to comply with their final WLAs must make every attempt to install full capture systems on all catch basins. In the case where a FCS retrofit is infeasible, agencies should attempt to install partial capture devices on the remaining catch basin(s), and either install a FCS or a partial capture device on the storm drain or MS4 outfall downgradient of the affected subwatershed. We request the criteria under the new proposed alternative for demonstrating compliance when using full capture systems exclusively to achieve WLAs be changed to reflect this distinction as follows.

“2) The agency submits to the Regional Board a report for Executive Officer concurrence, detailing the technical infeasibility of FCS retrofits, partial capture devices and the potential to install FCS or partial capture devices along the storm drain or at the MS4 outfall down gradient from the catch basin. Where technically feasible to install partial capture devices and/or partial capture devices along the storm drain or at the MS4 outfall down gradient from the remaining catch basin(s), such retrofits are made.” (Proposed Amendment to the Los Angeles River Watershed Trash TMDL at 5)(Proposed Amendment to the Ballona Creek Watershed Trash TMDL at 4).

***The Proposed Alternative Compliance Demonstration Method for Permittees Using Partial Capture and/or Institution Controls is Unjustified and Insufficient***

We have serious concerns regarding the second proposed alternative compliance demonstration option for responsible agencies using a suite of partial capture and institutional controls to meet final WLAs, and recommend that this alternative compliance method not be adopted.

Responsible agencies may request that the Executive Officer make a determination that 97% or greater reduction of their Baseline WLA as calculated using a mass balance approach along with some additional reporting criteria is effectively the same as 100% reduction of Baseline WLA.

Making concessions to compliance demonstration requirements of this nature is not far off from changing the TMDL numeric target all together. Moreover, to roll back compliance demonstration requirements this close to the final WLA deadline sets a bad precedent.

We caution the Regional Board against adopting this alternative approach. Zero is the only appropriate TMDL numeric target for trash given the water quality standards set forth in the Basin Plan. The federal Clean Water Act requires states to establish TMDLs “...at levels necessary to obtain and maintain the applicable narrative and numerical WQS [water quality standards] with seasonal variations and a margin of safety which takes into account the lack of knowledge concerning the relationship between effluent limitations and water quality.”<sup>1</sup>

Therefore even small quantities of trash violate the Clean Water Act and Basin Plan. Thus responsible agencies should be required to demonstrate 100% reduction of trash from Baseline WLAs.

---

<sup>1</sup> 40 C.F.R Section 130.7(c)(1)

Furthermore, the additional reporting criteria necessary to utilize this alternative compliance method are inadequate and vague. At minimum the Proposed Amendments should be changed to require agencies to submit data showing *five* or more consecutive years where Permittee's compliance was at or above 97% reduction of their baseline load using the mass balance approach. We also request that clarifying language be added to define "fully exploited". Proposed Amendments require that the report include, among other things, "demonstration that opportunities to implement partial capture devices have been fully exploited." (Proposed Amendment to the Los Angeles River Trash TMDL at 6)(Proposed Amendment to the Ballona Creek Trash TMDL at 6).What constitutes fully exploited? Further refinement of this criteria is needed. We suggest that the criteria be rewritten to require making a demonstration that it is technically infeasible to install further partial capture devices.

### ***Waterkeeper Supports the Addition of Receiving Water Monitoring Requirements***

Los Angeles Waterkeeper strongly supports the Proposed Amendments' addition of receiving water monitoring requirements for MS4 Permittees and Caltrans. We request that the Regional Board require Permittees to solicit stakeholder input and public comment in the development of their Trash Monitoring and Reporting Plan (TMRP). Considering the majority data used in the original Trash TMDLs was collected by stakeholder and community groups, it seems appropriate to engage the community and utilize their familiarity with the River and Creek in the development of the TMRP. We believe that involving the public in receiving water monitoring could also save agencies money and time and help them more effectively manage their trash reduction efforts. For this reason, we ask that the Regional Board hold a workshop for all interested stakeholders and community members to learn about the Rapid Trash Assessment Protocols and encourage collaboration between different jurisdictions and stakeholder groups to better effectively collect useful and comparable trash monitoring data.

We believe that while the receiving water monitoring requirements in the Proposed Amendments are a significant improvement to the Trash TMDLs, further refinement of the monitoring frequency and locations is needed. We proposed that the frequency of monitoring be no less than twice a year, with one monitoring event occurring between August and October; sometime before the first flush and the end of the summer to capture dry season accumulation. We agree with the Regional Board staff that at minimum there must be one monitoring location per tributary and reach. However, we request that that Regional Board add that in cases where tributaries and individual reaches have both earthen soft-bottom and hard channelized sections that a monitoring location be assigned for each channel type per reach or tributary.

## **II. Conclusion**

We believe that the Proposed Amendment, with the adoption of the suggested changes described above, will ultimately lead to improved water quality and bring us closer to attainment of water quality standards. This, in turn will aid in the protection of aquatic life and habitat, enhance the quality of recreational opportunities for the public, protect public health, and increase public



interest in these waterbodies as valuable recreational and ecological resources. Therefore we ask that the Regional Board make the above changes to the final amendment before adoption.

If you have any questions or would like to discuss these comment, please contact Los Angeles Waterkeeper at (310) 394-6162. Thank you for your consideration of these comment.

Sincerely,

A handwritten signature in black ink that reads "Lara Meeker".

Lara Meeker  
Watershed Program Manager  
Los Angeles Waterkeeper

Attachment A.



*Figure 1 Foamed plastic and other trash flowing from a storm drain into Ballona Creek. May 15, 2015.*



*Figure 2 Floating trash and foamed plastic in Ballona Creek following a rain event. May 15, 2015.*





*Figure 3 Trash and debris deposited by a storm event on the river bank of Ballona Creek. January 27, 2013.*



*Figure 4 Illegal dumping along Ballona Creek at Higuera St. October 29, 2013.*



*Figure 5 Storm drain in Ballona Creek clogged with plastic bags and trash, including a shopping cart. December 14, 2013.*