

Responses to Comments on the June 18, 2001 Proposed Modifications to the Los Angeles River Trash TMDL

I. Comments on Cost/Feasibility

Respondent	Date	Comment	Response
City of Vernon City of Montebello City of Lakewood City of Irwindale City of San Marino	8/2/01 8/2/01 8/3/01 8/6/01 8/6/01	A zero trash TMDL is still unreasonable: The City cannot support an absolute daily loading for trash because such a requirement is just too great a fiscal challenge; and would seriously compromise its ability to carry out its other municipal responsibilities. Contrary to the Regional Boards CEQA Checklist, the cost of complying with zero trash TMDL would have a significant negative effect on these services.	Controlling trash discharges via structural treatment devices can be expensive. Institutional controls, including enforcement of litter laws, likely will be much less costly.
City of Carson	8/2/01	Although the City agrees trash is a serious problem, it cannot support an absolute zero daily loading for trash. Such a requirement creates a fiscal and operational challenge for municipalities, and seriously compromises police/fire services and infrastructure maintenance.	
City of Claremont	8/3/01	The zero trash requirement is just too great a fiscal challenge for municipalities; requiring the allocation of a great portion of their budget to finance full-capture systems while making funds unavailable for other necessary services.	

<p>City of Vernon City of Carson City of Montebello City of Lakewood City of Irwindale City of San Marino</p>	<p>8/2/01 8/2/01 8/2/01 8/3/01 8/6/01 8/6/01</p>	<p>Future funding sources: It should be noted that the current availability of loans and funds is not sufficient to finance the enormous costs required to comply with this requirement. Therefore, there is no reason to be confident about the availability of such funding in the future. Further, because of the legal and political difficulty – if not impossibility – of establishing fees, it is not likely that a tax revenue increase is viable.</p>	<p>The cost of compliance with the TMDL will depend upon the methods selected by the Permittees. The 12-year compliance schedule allows time for phased implementation. Grants are available. However, staff concurs that it is not likely that grants will cover 100% of the expense of complying with the final waste load allocation.</p>
<p>Coalition for Practical Regulation</p>	<p>8/3/01</p>	<p>The Board should be aware that grant funding does not exist for programs to implement the trash TMDL. The Board should work with the cities to bring greater attention to the funding problems and to become an advocate of new funding programs to assist in the removal of trash from the Los Angeles River.</p>	<p>The City of Los Angeles has applied for several grants for storm water pollution control. The City was awarded a grant from L.A. County Prop A funds in the amount of \$484,303 and from TEA-21 a grant in the amount of \$475,000 for the installation of three CDS units. Construction for these units will begin shortly.</p>
<p>Richards, Watson & Gershon</p>		<p>The trash TMDL in its current form seems to have been drafted without due regard to the fiscal impact on cities. The TMDL will ultimately require a substantial capital investment which individual cities will have to fund, despite the fact that there is no funding mechanism, nor any assistance, financial or otherwise, is being provided to the cities.</p>	<p>Another grant in the amount of \$675,000 also was awarded to the City of Los Angeles from Prop 13. These monies were awarded for the project entitled "Upper LA River Watershed Urban Runoff Pollution Removal Projects." Under this grant three to four pollution removal systems will be installed.</p>

County of Los Angeles	8/6/01	Although the staff report identifies cost, there is no indication that there has been any consideration of these costs in developing the TMDL or its implementation schedule.	The Regional Board staff previously responded to this comment in detail in the "Response to Comments" -No. 71- on the Draft Los Angeles River Trash TMDL dated November 27, 2000, which is already part of the administrative record.
Richards, Watson & Gershon	8/3/01	The RWQCB failed to fully assess cost considerations in developing the trash TMDL. The cost considerations section of the TMDL failed to consider the cost of implementing the proposed institutional controls, such as aggressively enforcing litter laws and providing more street sweeping, and also failed to consider costs that may be associated with adverse environmental effects, such as increased traffic, pollution, flooding, and energy needs.	As noted in the earlier responses to comment, staff carefully considered economic factors associated with implementation of the TMDL to the extent required by state law, in accordance with provisions of CEQA. Actual costs incurred will depend on the method that the Permittees employ to meet the TMDL.

II. Comments on CEQA

Respondent	Date	Comment	Response
City of Vernon City of Montebello City of Lakewood City of Irwindale City of San Marino	8/2/01 8/2/01 8/3/01 8/6/01 8/6/01	CEQA Checklist: is inadequate. For example the city disagrees with all the “no” and “maybe” responses in item #14 (a) – (b) and (d) – (f). The costs of complying with the zero trash TMDL would have a definite impact on fire- and police-protection and should have at a minimum warranted a “maybe” and perhaps even a “yes” response. The general explanation to the “maybe” responses is too cursory and does not include a cost impact analysis of municipal budgets which vary from city to city.	The following responses address all comments relating to CEQA: Staff analysis of the record is that the TMDL will have no significant impacts on human beings and/or the environment. With regard to flooding; the Vortex Separation Systems, when used as “full capture” devices as outlined in the TMDL, do not pose a flood hazard when sized and maintained appropriately. Regular clean-out and maintenance of Catch Basin Inserts, should remove the threat of flooding.
City of Monrovia	8/2/01	CEQA Checklist: The City disagrees with the responses provided for item # 14 as to the potential impacts of the Trash TMDL on municipalities. The potential cost of implementing this program can impact the ability to provide other city services.	Removal of trash from city streets is expected to reduce health risks associated with vector-borne diseases. Correct operation and maintenance of any installed devices should minimize the potential for vector-breeding or the creation of odors.
City of Claremont	8/3/01	The CEQA checklist appears to be deficient in assessing the full impact of a zero trash TMDL on municipalities. The City disagrees with the answers to the questions on impacts on Public Service and believes the TMDL will most definitely have an effect on fire protection, police protection, parks and other recreational facilities, maintenance of public facilities including roads,	Cities have the option of using structural controls and/or institutional controls; and may consider cost when selecting an

Coalition for Practical Regulation	8/3/01	<p>and other governmental services as it will diminish funding in these areas.</p> <p>Impact on City services: The implementation of the trash TMDL will have a significant impact on fire protection police protection. Parks or other regional facilities. Including roads, and other governmental services. The Board has failed to explain how the fiscal impacts are not significant to the cities . The fiscal impact of the amendment needs to be evaluated to determine the extent of the impacts.</p>	<p>implementation strategy.</p> <p>It is not anticipated that the proposal will directly result in a need for new or altered governmental services in these areas. The affected local agencies are already expected to enforce their own litter ordinances. The proposal includes several years for the affected agencies to conduct planning and implementation activities, and to explore and select any necessary funding options, including loans, grants and revenue increases.</p>
Richards, Watson & Gershon	8/3/01	<p>The CEQA checklist also fails to list any impact on public service, including police, or other governmental services, such as solid waste collection and disposal. An increased anti-littering enforcement program would have a large impact on local resources particularly law enforcement agencies.</p>	<p>Any impact on solid waste and disposal would be as a result of trash being properly disposed of. Redirection of improperly disposed trash from rivers to permitted solid waste landfills, the proper disposal facility in the first instance, is not a negative environmental impact.</p>
County of Los Angeles	8/6/01	<p>The checklist fails to adequately discuss the public service impacts inherent in requiring the permittees to install structural controls that the staff report itself estimates to cost literally hundreds of millions of dollars.</p>	<p>Increased street sweeping involves collection of trash from the road surface, not maintenance of the road itself and therefore will have no impact on the durability or longevity of the road surface or sub-base.</p>
City of Vernon	8/2/01	<p>The checklist is marked no for item # 3(i), however the City is concerned that there is a potential for localized flooding if the full-capture</p>	<p>The TMDL will not cause any changes in land use and/ or soil conditions. The</p>

City of Vernon	8/2/01	<p>device were to become plugged or malfunction.</p> <p>Item # 16 (e) is marked maybe – it is likely any insert or filtering system will change the hydraulic efficiency of the piping network. This could result in flooding where no flooding currently exists, and could have a tremendous adverse impact on property and therefore should be completely studied.</p>	<p>course of the flow of flood waters will not be altered and noise impacts and increased air emissions are not expected to be significant.</p> <p>The TMDL considers alternative methods of compliance with the target established. The clarifying language makes it clear that any device meeting the performance levels for “full-capture” will be permitted.</p>
Richards, Watson & Gershon	8/3/01	<p>The RWQCB completed a CEQA checklist, finding that there were no potential significant adverse environmental impacts. We believe the finding is inaccurate. Installing a full-capture system will cause (1) change in soil condition, (2) increased air emissions, (3) objectionable odors, (4) increased chance of flooding, (5) breeding of pests and bacteria, (6) increased noise, (7) increased use of energy and natural resources. Increased street sweeping may also create odors, increase traffic, noise and air pollution.</p>	<p>An updated CEQA Checklist was prepared and signed on June 18, 2001. This checklist complies with current CEQA requirements.</p> <p>Mitigation measures are not required since the Regional Board has determined that the TMDL will have no significant adverse impacts on the environment.</p>
County of Los Angeles	8/6/01	<p>The CEQA review for the trash TMDL is seriously deficient. The checklist falls short of the requirements of 14 Cal, Code Reg. § 15252 and Public Resources Code § 21159. The following are examples of significant or potentially significant environmental impacts that were either not considered in the checklist or were dismissed as not significant: (a) creation of objectionable odors, (b) alterations to the course</p>	

		of flow of flood waters or exposure of people or property to water-related hazards such as flooding or tidal waves, (c) increases in existing noise levels, (d) creation of health hazard or potential health hazard.	These comments are addressed in the responses immediately above.
Rutan & Tucker	8/3/01	The Negative Declaration fails to recognize the potential for significant adverse impacts on human beings or the environment, either directly or indirectly. These potential impacts include but not limited to installation of structural/treatment systems resulting in breeding grounds for vectors, flooding problems, alteration of land uses, impact on public services as a result of loss of funds and available resources, and impact on landfill capacity.	
Rutan & Tucker	8/3/01	The following items in the Negative Declaration were either not properly responded to and/or the evidence in the record does not support the response provided: 1 (a) – (d) and (f), 3 (a) – (d), 8(a), 12(a), 14 (a) (b) (d) and(f), 16 (e) and (f). The explanations provided to the “yes” and “maybe” answers to the following items were cursory, and failed to fully identify the potential impacts and to mitigate the potential impacts, and are not supported by the findings or substantial evidence in the record: 3 (e); 5(a); 14(d); 14(f); 16 (e); and 19(a).	

Rutan & Tucker	8/3/01	The Negative Declaration and proposed trash TMDL does not identify, describe or discuss any feasible alternative activities to the proposed project as required by CEQA, and similarly fails consider any mitigation measures to mitigate the potentially significant adverse environmental impacts on the environment	These comments are addressed in the responses immediately above.
City of Vernon		The environmental checklist used by the state is outdated and no longer complies with current CEQA requirements that all impacts must be mitigated. To date no mitigation-monitoring program has been prepared.	

III. Comments on Beneficial uses

Respondent	Date	Comment	Response
City of Vernon City of Montebello City of Lakewood City of Irwindale City of San Marino	8/2/01 8/2/01 8/3/01 8/6/01 8/6/01	Vague Beneficial use impact: The Regional Board has yet to provide any compelling scientific or anecdotal data that demonstrates that even the slightest piece of trash impairs every beneficial use of every reach of the Los Angeles River. The only data the Regional Board has used to support its conclusion is its own assertion – based on opinion. A more reasonable limit on the amount of trash that can be discharged from upstream municipal jurisdictions must be	The Regional Board staff previously responded to this comment in detail in the “Response to Comments” on the Draft Los Angeles River Trash TMDL dated November 27, 2000, Nos. 17 & 18, which are already part of the administrative record. Regional Board staff conducted extensive literature searches for studies regarding the impacts of trash on aquatic life and

		established as an alternative to a zero trash limitation.	other beneficial uses. Numerous studies demonstrate the harmful impact of trash on aquatic organisms. However, no information was found to indicate a level above zero that “would not cause nuisance or adversely affect beneficial uses” of the River.
NRDC, Heal the Bay, Santa Monica BayKeeper	8/6/01	While there is no evidence that any amount of trash above zero will protect beneficial uses, evidence in the record demonstrates that even small quantities of trash violate the Clean Water Act or the Basin Plan by maiming or killing wildlife that becomes entangled in, or ingests the debris. Other beneficial uses such as boating and contact and non-contact recreation are also affected.	Staff concurs.

IV. Comments on Legal Aspects

Respondent	Date	Comment	Response
Richards, Watson & Gershon	8/3/01	Informal Rule Making: There is a lack of established, clearly defined policies, guidelines or regulations by either the SWRCB or the RWQCB, setting forth specific elements which will be included in any TMDL. As a result, the trash TMDL appears to be an amalgamation of	The TMDL development process is Basin Planning, which is similar to APA rule-making, but specifically exempted from formal APA requirements. When approved by the SWRCB and the Office of Administrative Law, the Trash TMDL

		<p>excerpts from different reports, suggestions and ideas generated by Board staff, all developed, to our knowledge, without either the RWQCB or the SWRCB complying with California's Administrative Procedure Act, Government Code §§11340 <u>et seq.</u></p>	<p>will be in effect for state purposes and will be a lawful regulatory provision. When approved by USEPA, the Trash TMDL will be in effect for purposes of the federal Clean Water Act.</p>
<p>Richards, Watson & Gershon</p>	<p>8/3/01</p>	<p>CWA expressly provides that permits for discharges from municipal storm drains are not subject to Section 301, but rather such permits shall require controls to reduce discharges "to the maximum extent practicable" However, the RWQCB is attempting to impose Section 303 requirements for either technology-based standards or water-quality-based requirements to implement the narrative objectives on municipal storm drains through the trash TMDL.</p>	<p>The comment incorrectly characterizes the interplay between TMDLs and technology-based standards. While CWA section 402 establishes reduction to the maximum extent practicable (MEP) as the applicable technology standard for municipal separate storm sewer systems (MS4) (33 USC 1342(p)(3)(B)), MS4 permits must still confirm to applicable water quality-based standards. The technology standards provide an interim step, identifying the appropriate level of effort, until the adoption of TMDLs— while still requiring MEP after adoption of the TMDL, the level of effort under MEP may need to increase to reflect the waste load allocation. Waste load allocation regulations, which are part of implementing the TMDL, clearly evince an intent to cover all discharges for which an NPDES permit is required, including MS4 permits. (40 CFR 130.2(g).) In addition, 40 CFR 122.44(d)(1)(vii)</p>

			requires the permitting authorities to consider waste load allocations in issuing permits. For these reasons, it is clear that the CWA intends for the MS4 stormwater permits and ultimately their waste load allocations to be incorporated into the TMDL process.
Richards, Watson & Gershon	8/3/01	Section 13241 of the California Water Code provides that water quality objectives must be established to ensure the reasonable protection of beneficial uses. A zero trash target is not reasonably attainable. The cities and other Los Angeles County permittees will be required, at great expense, to construct full capture units to meet a zero trash numeric target that is impossible to meet without totally controlling all sources of trash, and therefore controlling individual behavior. Furthermore, the TMDL does not reflect any serious analysis of the individual factors set forth in this section, specifically the requirements that the RWQCB take into account economic considerations in establishing water quality objectives.	<p>The Regional Board staff previously responded to this comment in detail in the "Response to Comments" on the Draft Los Angeles River Trash TMDL dated November 27, 2000, -Nos. 8 & 15, which are already part of the administrative record. As noted in the earlier responses to comment, this level of treatment is achievable using commercially available treatment technology, and may also be achieved through enforcement of anti-litter ordinances and partial capture control devices.</p> <p>Water Code §13241 requires the Regional Board to take into consideration a number of factors, including economic factors, when establishing water quality objectives. The trash TMDL, although it will be included as an amendment to the Basin Plan, does not establish or alter water quality objectives contained within the Basin Plan. Therefore, the analysis set</p>

			forth in §13241 is not required here.
Richards, Watson & Gershon	8/3/01	The RWQCB violated section 13360(a) of the Water Code by specifying the manner of compliance in table 6 of the trash TMDL. For example the RWQCB has required the clean-out and measurement of trash at certain specified time intervals.	The clean out and measurement referred to is an essential part of the baseline monitoring plan for the purpose of determining the waste load allocation. The method of cleaning and measurement is to be determined by the Permittees. The Regional Board therefore has not violated the California Water Code.
Richards, Watson & Gershon	8/3/01	The imposition of unfunded programs and mandates in the trash TMDL is inconsistent with provisions of the California Constitution (Article XIII B), which requires a state agency which mandates a new program or higher level of service to provide a “subvention” of funds to reimburse local governments for the cost of the program or increased level of service. It also prevents the State from shifting the cost of government from itself to local; agencies.	The Regional Board staff previously responded to this comment in detail in the “Response to Comments” on the Draft Los Angeles River Trash TMDL dated November 27, 2000, -No. 5, which is already part of the administrative record. As noted in the earlier responses to comment, because the storm drain system is one of the primary contributors to the trash problem in the Los Angeles River, the programs included pursuant to the draft TMDL are administered through storm water permits issued to cities within the L.A. River watershed. The reductions in loading will be required as part of the National Pollution Discharge Elimination System (NPDES) permits. The Constitutional provision referenced addresses additional services required of

			<p>local agencies, not regulatory requirements imposed upon all permittees. The State Board has previously found that the requirement to reimburse local agencies for state-mandated costs does not apply to NPDES permits. SWRCB Order No. WQ 90-3 (In the Matter of San Diego Unified Port District). In addition, the exemption afforded by Government Code §17556(c) applies, since the TMDL programs implement federal laws and regulations. The requirement that states develop TMDLs for impaired waters is clearly set forth at 33 U.S.C. 1313(d)-(e).</p>
Richards, Watson & Gershon	8/3/01	<p>The information requirements go beyond the requirements of EPA's regulations implementing the Clean Water Act; and are not consistent with the requirements of the Federal Paperwork Reduction Act.</p>	<p>The Regional Board staff previously responded to this comment in detail in the "Response to Comments" on the Draft Los Angeles River Trash TMDL dated November 27, 2000, -No. 6, which is already part of the administrative record. As noted in the earlier responses to comment, under California Water Code §13267, a regional board, in establishing or reviewing any water quality control plan, may investigate the quality of waters of the state within its region. Pursuant to this authority, the regional board may require any discharger to furnish technical or monitoring program reports which the</p>

			regional board requires. Calif. Water Code §13267(b). The Paperwork Reduction Act (44 U.S.C. §§3501 et seq.) is a federal act, applicable to federal agencies. By its terms, State agencies are not included.
County of Los Angeles	8/6/01	Clean Water Act Section 303(d)(1)(C), 33 U.S.C. Section 303(d)(1)(C), requires each state to establish a TMDL for pollutants discharged to impaired waterbodies. The TMDL shall be at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality, The trash TMDL for the Los Angeles River Watershed fails to follow the mandated statutory and regulatory procedure because it : (a) fails to determine the amount of trash that can be discharged to the Los Angeles River without impairing its beneficial uses; (b) fails to identify all potential sources; and (c) fails to make a load allocation to all identified sources and develop an implementation strategy for reducing trash from those sources.	<p>The Los Angeles River Trash TMDL establishes that zero trash may be discharged in the river without impairing beneficial use. This determination includes an implicit margin of safety, as required. The TMDL staff report identifies litter as the source of trash in the river. Litter may be transported via storm drains, wind action or direct deposit. However the predominant transport system is the storm drain. The second milestone in the implementation plan is for the cities and County to provide a list of facilities that are outside their jurisdiction, These facilities also will be provided a Waste Load Allocation of zero, under Phase II of the Stormwater permitting regulations.</p> <p>The United States Environmental Protection Agency has reviewed the Los Angeles River Trash TMDL and testified at the January 25, 2001, Regional Board</p>

			hearing that it complies with all applicable rules and guidelines.
County of Los Angeles	8/6/01	There is no factual or legal basis for concluding that the TMDL has to be zero to prevent impairment of beneficial uses. In the Porter-Cologne Water Quality Act, the Legislature stated that “it is recognized that it may be possible for the water quality to be changed to some degree without unreasonably affecting beneficial uses.” Water Code Section 13241. The staff report states that “no information was provided to justify any other number...” The report itself, however, also cites no study to support the zero target. Designation of a zero limit, in the absence of study or any realistic hope of attainment, does not provide the “commonsense, cost-effective framework” which the EPA promised for TMDLs.	The Regional Board staff previously responded to this comment in detail in the “Response to Comments” on the Draft Los Angeles River Trash TMDL dated November 27, 2000, -Nos. 17 & 18, which are already part of the administrative record. As noted in the earlier responses to comment, no data were made available to the Regional Board to substantiate that a loading of greater than zero trash would fully protect the beneficial uses.
County of Los Angeles	8/6/01	EPA guidance is very clear that there must be scientific or technical basis. “The TMDL document must provide an appropriate level of technical analysis supporting <u>all</u> TMDL elements.” <i>EPA Guidance, p8.</i>	USEPA testified at the January 25, 2001 public hearing that the trash TMDL does provide the appropriate level of technical analysis and complies with the “Guidance for Developing TMDLs in California – EPA Region 9.”
County of Los Angeles	8/6/01	A numeric TMDL has been proposed to implement vague narrative standards without	The numeric target is based on the applicable water quality standards. The

		resort to a “translator” setting forth the rationale for the numeric standard and adopted pursuant to the California Administrative Procedures Act (APA), Government Code §§ 11340 et seq. The failure to of the RWQCB to develop such a “translator” through the APA rulemaking process renders the TMDL invalid under California law.	development and adoption of the Basin Plan amendments and the TMDL is exempt from the formal rulemaking requirements of the APA. Nonetheless, the Water Code and the Government Code establish a rulemaking process for Basin Plan amendments, that is analogous to the formal rulemaking process. The development of a TMDL is therefore a rulemaking process and a lawfully adopted TMDL is enforceable.
Rutan & Tucker	8/3/01	The Regional Board still fails to comply with the cost/benefit requirements of the Section 13267(b) and similar provisions in the Water Code and the Clean Water Act	The TMDL implementation plan calls for a progressive reduction of trash discharges over a 10 -year period. In order to demonstrate reasonable progress toward the final waste load allocation and compliance with the interim waste load allocations, it is necessary to identify the amount of trash that is currently being discharged. The TMDL also includes a default waste load allocation, which was based upon available data. However, the permittee and co-permittee have commented that the default baseline is too low. Without additional baseline monitoring data, the permittee and co-permittees may be held to a much lower waste load allocation than intended during the early years of the implementation plan. The cost of complying with the

			reduced waste load allocation likely would far exceed the cost of providing the baseline monitoring report to be required pursuant to section 13267. The burden and cost of providing the requested data has been considered and is deemed reasonable when compared to the cost of complying with the reduced waste load allocations. Furthermore, an accurate estimate of the current trash discharges is necessary to ensure reasonable progress toward meeting the final waste load allocation.
Rutan & Tucker	8/3/01	CEQA requires that governmental agencies “at all levels” consider “qualitative factors as well as economic and technical factors and long-term benefits and costs and to consider alternatives to proposed actions affecting the environment.” Public Resources Code § 2100(d) and (g). A review of the declaration shows the regional Board has not considered economic and technical factors, long term benefits and costs and to consider alternatives to the proposed project affecting the environment,	The Regional Board staff previously responded to this comment in detail in the “Response to Comments” -No. 71- on the Draft Los Angeles River Trash TMDL dated November 27, 2000, which is already part of the administrative record. As noted in the earlier responses to comment, staff carefully considered economic factors associated with implementation of the TMDL to the extent required by state law, in accordance with provisions of CEQA. Actual costs incurred will depend on the method that the Permittees employ to meet the TMDL.
NRDC,	8/6/01	A TMDL is a numeric limit. 33 USC Section	Based on comments received, staff has

Heal the Bay, Santa Monica BayKeeper		1313(d)(1)(C); 40 CFR 130.2; 40 CFR 130.7. The June 18 changes the adopted “zero” TMDL from a numeric limit to a performance-based standard of 95% reduction of trash. TMDLs are ideally intended to apply to the entire water segment . 33 USC Section 1313(d)(1)(C); 40 CFR 130.2(j); 40 CFR 130.7. By allowing in-stream capture of trash, the changes prevent the TMDL from applying to the entire Los Angeles River, and make waste transport a de facto use of the river.	deleted language pertaining to the 5% in-stream removal from the recommended changes.
City of Carson City of Lakewood City of Irwindale	8/2/01 8/3/01 8/6/01	The Los Angeles Basin Plan does not address trash as a water quality standard. Rather, it addresses “floatables” that cause a nuisance or impair a beneficial use	Trash is a component of the “floatables” referred to in the Basin Plan.

V. Comments on Treatment Technology

Respondent	Date	Comment	Response
City of Vernon City of Montebello City of Lakewood City of Irwindale City of San Marino	8/2/01 8/2/01 8/3/01 8/6/01 8/6/01	Significant amounts of trash to the terminus of the Los Angeles River can be reduced without the need for costly vortex separation systems which currently appears to be the only measure of fully complying with the zero trash TMDL.	Zero discharge or full capture can be achieved using commercially available treatment technology or via effective litter abatement and partial capture technology.

City of Monrovia	8/2/01	Full-Capture Systems: Although options are afforded, essentially the vortex separation system control device appears to be the only industry device that would satisfy the established requirements	The Vortex Separation Systems are not the only devices allowed. One purpose of the clarifying language is to make clear that the Regional Boards intent to consider other “full capture” devices.
Coalition for Practical Regulation	8/3/01	Allowances for regional river booms: The concept of the river boom should be expanded to permit their use in other reaches and tributaries of the river. Reduction credits should be given for these various reaches of the river and tributaries, if river booms are installed. The TMDL is unclear as to whether the credit will apply regionally or to jurisdictions within a reasonable distance from the river boom.	Based on comments received, staff has deleted language pertaining to the 5% in-stream removal from the recommended changes.
City of Los Angeles	8/6/01	The requirement of 95% removal of trash from in-pipe structural devices remains technically infeasible.	
City of Los Angeles	8/6/01	Applying the 0.6in/hr treatment design requirement may not be feasible because of the potential to cause flooding upstream of the installation and the increased cost of implementing much larger structural devices.	When sized and operated appropriately, the Vortex Separation Systems should not pose a flood hazard.
City of Los Angeles	8/6/01	In order to address the new SUSUMP requirements, municipalities will be installing	SUSUMP establishes minimum standards for new development. The 0.2 in/hr sizing

		structural devices to treat 0.2 in/hr of rainwater. The Regional Board should clarify whether the trash TMDL requirement supercedes SUSUMP requirements for new developments.	will not meet the “full-capture” performance level.
NRDC, Heal the Bay, Santa Monica BayKeeper	8/6/01	The TMDL should not be set based on the capability of a treatment device. A technology-based standard should not become the functional equivalent of zero.	The TMDL is not set based on the capability of a treatment device, but rather the device is used as a means of compliance.
City of Vernon	8/2/01	Enforcing litter laws, along with conducting more frequent street sweeping, and cleaning out catch basins more frequently would not meet the zero trash TMDL requirement	There is no basis for this assumption. Any method that will prevent trash from entering the storm drain system should be capable of meeting the requirement.

VI. Comments on In-stream Trash Removal

Respondent	Date	Comment	Response
County of Los Angeles	8/6/01	In-stream removal of 5 percent trash: The County strongly objects to this provision based on both the fact that such in-stream removal is technically impossible and that the requirement potentially transfers responsibility for the control of trash generated in individual municipalities to the County or the Army Corp of Engineers.	Based on comments received, staff has deleted language pertaining to the 5% in-stream removal from the recommended changes

		Opting for in-stream removal would make municipalities responsible for direct- or air-deposited trash in the concrete-lined segments of the River.	
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VII. Comments on the Re-opener

Respondent	Date	Comment	Response
County of Los Angeles	8/6/01	<p>The TMDL should include a re-opener that states that the RWCB can re-open this TMDL and modify it upon petition of a permittee, interested party, or its own motion. There is no reason or rational basis for stating that the TMDL will be reviewed only after a 50 percent reduction, or any other reduction, is achieved.</p> <p>The Regional Board should provide that the presently proposed waste allocations will be reviewed once the assimilative capacity for the Los Angeles River is determined and cost-efficient approaches are identified.</p>	The Board has the option to re-open the TMDL any time that new information becomes available. Presently there are two mandatory re-evaluations- (i) after the baseline monitoring period, and (ii) at 50% reduction.
City of Los Angeles	8/6/01	The re-opener clause should be amended to require the RWQCB to re-set the target, in light of the results of the assimilative capacity study for the River.	

VIII. Miscellaneous Comments

Respondent	Date	Comment	Response
Honorable Senator Bob Margett, Twenty-ninth District	6/15/01	I would request that the Board rescind the adoption of the proposal, remove the proposal from State Board's calendar, and return the proposal to the Board for further discussion.	The Regional Board will re-consider the Los Angeles River Trash TMDL on September 19, 2001. A consent decree (Heal the Bay, et al. v. Browner, Case No. 98-4825 SBA) signed on March 22, 1999, requires USEPA to develop a Trash TMDL for the Los Angeles River by March 22, 2001.
Coalition for Practical Regulation	8/3/01	TMDL should be expanded to State and Federal facilities: The proposed amendment does not address how to implement multi-jurisdictional TMDLs. The TMDL states that nonpoint sources are to be addressed at some time in the future. That means that state and federal lands and facilities are under no obligation to participate in the funding of regional/sub-regional projects which will be collecting their trash. The result is that cities will have to fund the State and Federal Government's share of trash mitigation and improvements, without reimbursement.	The Regional Board staff previously responded to this comment in detail in the "Response to Comments" on the Draft Los Angeles River Trash TMDL dated November 27, 2000 (See Response No. 51.) Under EPA Phase II Storm Water regulations, separate permits will be written for state and federal facilities. These entities also will be required to conduct baseline monitoring and will be assigned a final waste load allocation of zero discharge.
County of Los Angeles	8/6/01	Like the numeric target, no technical or scientific basis is given for adoption of the ten-year implementation schedule.	The ten-year implementation schedule was adopted to allow Permittees time to develop and implement effective trash reduction strategies. It is intended solely to reduce the economic burden of

			compliance.
City of Los Angeles	8/6/01	The RWQCB should re-word the “zero numeric target” to read “zero objective” and develop wording concerning enforcement action, third party lawsuits, and de-listing criteria.	A numeric target is a required element of the TMDL. Changing the wording to objective would imply that staff is changing the water quality objective to zero trash in the Los Angeles River. This would be considerably more stringent than a numeric target of zero.
City of Los Angeles	8/6/01	Air- and direct-deposited trash will not be eliminated from the unlined portion of the waterbody, and the lined portion of the River is allowed 5% trash; therefore the River will never be de-listed.	The TMDL addresses the major sources of trash in the Los Angeles River as can be seen after a major storm. The 5% in-stream removal provision has been deleted from staff’s recommendation. The applicable narrative water quality objectives have not been changed by the TMDL.
County of Los Angeles	8/6/01	Data collected through the baseline monitoring period should be evaluated on an annual basis to determine more appropriate allocation limits and an ultimate TMDL.	The purpose of the Baseline Monitoring program is to establish the amount of trash currently being discharged, prior to implementation of the TMDL. These data will be used to establish the interim waste load allocations, but will have no bearing on the final waste load allocation. Annual estimates of trash discharges are expected to reflect trash reductions during the TMDL implementation period. The final waste load allocation may be revised

			<p>based upon future studies of the impacts of trash on beneficial uses. These studies should not be confused with the baseline monitoring study.</p> <p>The Waste Load Allocation will be finalized after the baseline monitoring has been completed. This allocation will be reviewed after substantial reductions have occurred. In addition, the Board may consider the TMDL when new information becomes available.</p>
Executive Advisory Committee	7/24/01	<p>Insert the following language on Page 26: "Alternative Baseline monitoring – last paragraph". . . weather conditions. this requirement can be met by structural, full-capture devices installed in either the L.A. River or Ballona Creek watershed.</p> <p>For each land use monitored, a minimum of ten additional representative land use sites shall be sampled through dry-weather street litter surveys. The surveys shall consist of the litter collection during the summer months on a day mid-way between the street sweeping cycle. All litter within the right-of-way shall be collected and both its volume and weight shall be recorded. The data will be used to determine the average amount of litter existing within the right-of-way</p>	<p>Staff is amenable to plans to perform baseline monitoring studies jointly within the Los Angeles River and Ballona Creek watershed. There is no need to modify the Trash TMDL, as the details of the Baseline Monitoring Plan will be specified by the Regional Board's Executive Officer in a letter pursuant to CWC section 13267. While conceptually, staff supports this second "alternative baseline monitoring program" details, such as what constitutes a "right-of-way" must be further defined.</p>

		per unit area for representative land uses.	
Executive Advisory Committee	7/24/01	Complete wet-weather baseline monitoring is no longer feasible to begin in October 2001. The EAC proposes a "phase 1" baseline monitoring to be conducted from October 2001 through September 2002. This sampling would determine the effectiveness of catch basin inserts versus Continuous Deflector Systems, VSS, or trash cage systems and the effectiveness of manual litter pickups versus street sweeping.	Staff concurs that such studies could provide useful data. However, given that the permittees have been aware of the baseline monitoring requirement since January 25, 2001, they should be prepared to implement a full-scale Baseline Monitoring program during the 2001/2002 storm season.
Executive Advisory Committee	7/24/01	<p>Insert the following language on Page 29, Compliance Determination, Section 2:</p> <p>"Partial Capture Treatment Systems and Institutional Controls: "The Executive Officer may approve alternative compliance monitoring programs upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the storm drain system. More than one option is available to determine compliance with the waste load allocations.</p> <p>Municipalities may develop individual compliance monitoring programs using in-flow litter collection devices, such as catch basin inserts or Vortex Separation System (VSS) units. Data resulting from designated sampling sites will be extrapolated to all similar land uses to demonstrate compliance. Such a program shall</p>	The TMDL already allows the Executive Officer to accept compliance monitoring programs that provide scientifically-based estimate of trash discharged from the storm drains. Inserting the language proposed by the EAC would pre-judge the scientific merit of these alternative approaches, without sufficient scientific review.

	<p>use protocols compatible with those employed for in-flow devices under the baseline monitoring plan.</p> <p>Municipalities may also prove compliance using street litter surveys. The protocols for a survey within each municipality shall be compatible with those used for litter surveys under baseline monitoring plan.</p> <p>A third compliance monitoring option is the use of street sweeping data to calculate a daily generation rate.</p>	
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