

**Responsiveness Summary – Trash TMDL for Machado Lake
Comment Due Date: May 4, 2007**

4-1 County of Los Angeles, Department of Public Works
4-2 City of Los Angeles, Department of Public Works, Bureau of Sanitation
4-3 Heal the Bay
4-4 United States Environmental Protection Agency (USEPA)
4-5 California Department of Transportation (Caltrans) (Received 5/7 via email)

No.	Author	Date	Comment	Response
4-1.1	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> Replace all references in the proposed Basin Plan Amendment ("BPA") to the "Los Angeles County Department of Public Works" with "the County of Los Angeles."</p> <p><u>Explanation:</u> The Department of Public Works is a department of the County, but is not a separate governmental entity. Therefore, all references to the Department as a "responsible jurisdiction" should be deleted from the proposed BPA and replaced by references to the County.</p>	Staff has revised the Basin Plan Amendment (BPA) to incorporate the same designations as the MS4 permit which identifies Los Angeles County Flood Control District, and County of Los Angeles as responsible agencies. The TMDL does not preclude the County from assigning responsibility to its own departments and districts for TMDL implementation .
4-1.2	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> Replace "Los Angeles County Department of Parks and Recreation" with "the City of Los Angeles Department of Recreation and Parks" in the Load Allocation element of Table 7-26.1.</p> <p><u>Explanation:</u> Machado Lake is owned and maintained by the City of Los Angeles, not Los Angeles County.</p>	Staff has replaced "Los Angeles County Department of Parks and Recreation" with "City of Los Angeles Department of Recreation and Parks" in the Load Allocation element of Table 7-26.1
4-1.3	County of Los Angeles, Department of Public	May 3	<p><u>Requested Action:</u> The definition and intent of "Minimum Frequency of Assessment and Collection (MFAC)" should be clarified.</p>	Staff has revised the tentative Basin Plan Amendment to clarify that the MFAC defines the minimum frequency that agencies must assess and collect

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	Works		<p>Explanation: Public Works understands that the MFAC intends to set the maximum maintenance requirement that can be most practically implemented. However, the use of "minimum" is misleading as it could mean that the frequency can be increased to more than once per day, which would be practically unachievable. Therefore, MFAC can be redefined to set "maximum frequency."</p> <p>Public Works would like to clarify that the Trash Monitoring and Reporting Plan with MFAC option would initially propose a certain frequency of maintenance (less than once a day) in combination with BMPs. If assessed trash volume fails to show progressive reduction over a monitoring period, more BMPs would be proposed to reduce the trash.</p> <p>Alternatively, the initially proposed frequency could be increased but no more frequent than once a day. If "maximum frequency" of once per day is ultimately adopted, it would automatically establish "compliance with TMDL" even if the progressive reduction schedule set forth in Table 7-26.2b was not met.</p>	<p>trash from waterbodies to comply with the TMDL. The initial frequency for the MFAC program is based on staff's best professional judgment considering factors of current trash abatement programs, trash sources, and land use types, and allows responsible jurisdictions to propose and implement best management practices (BMPs). Responsible jurisdictions have flexibility to increase the assessment and collection frequency above the MFAC as needed in conjunction with BMPs and may propose a less frequent MFAC pending results of monitoring as submitted in annual reports. However, the assessment and collection frequency, unless approved by Executive Officer of RWQCB, cannot be lower than MFAC.</p> <p>The frequency of five days per week may or may not be adequate to prevent from accumulating in amounts that are deleterious.</p>
4-1.4	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> Add a provision to Table 7-26.2b of BPA and Table 10 of the Staff Report indicating, "Compliance with Waste Load Allocation (WLA) and Load Allocation (LA) is assumed if the implementation follows the schedule in the table or MFAC of once per day is adopted."</p> <p>Explanation: Table 7-26.2b of BPA and Table 10 of the Staff Report do not indicate when the compliance is achieved under</p>	<p>Staff agrees. The Basin Plan has been revised to incorporate the suggested change. However, it is noted that the TMDL contain a provision that the Executive Officer can modify the MFAC if it is shown that the MFAC does not prevent trash from accumulating in amounts that are a</p>

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4-1.5	County of Los Angeles, Department of Public Works	May 3	<p>the MFAC option.</p> <p>The proposed BPA sets forth a numeric target of zero trash in or on Machado Lake and on the shoreline. This numeric limit is translated from a narrative water quality objective in the Basin Plan for floating material which states: "Waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." The Staff Report, on page 15, concludes simply that based on the narrative objective, "staff finds the capacity of Machado Lake to accumulate trash is zero."</p> <p>This conclusion does not represent any analysis of the linkage between the numeric target of the TMDL and the narrative standard. We encourage Regional Board staff to explain more fully the rationale for their selection of the numeric target. Alternatively, we suggest that the proposed BPA be amended to provide that the capacity of the lake be assessed after removal of some percentage of the trash to determine if a nuisance is still present or beneficial uses still are not being adversely affected.</p>	<p>nuisance or deleterious amounts.</p> <p>The numeric target of "zero" is consistent with narrative water quality objectives for floating, suspended and settleable materials. No studies exist that demonstrate that waterbodies would support any numeric target greater than zero.</p> <p>There are no studies to show that any amount of trash discovered in waterbodies does not impair aquatic life and other beneficial uses.</p> <p>The numeric target of "zero" was upheld by the California Court of Appeal in <i>Cities of Arcadia v. State Water Resources Control Board</i> [challenge to the Los Angeles River Trash TMDL].</p>
4-1.6	County of Los Angeles, Department of Public Works	May 3	<p>Public Works believes that the description of the discharges from the Wilmington Drain should be more clearly set forth on Page 5 of the Staff Report. Public Works suggests that the last sentence of Page 5 of the Staff Report be replaced with the following sentence:</p> <p>"Wilmington Drain collects over 50 percent of the runoff from the surrounding Cities of Lomita, Torrance, Carson and Los Angeles, and then outlets into Machado Lake at the northeast corner."</p>	<p>Comment noted. The description of the discharges from the Wilmington Drain will be clarified in the Staff Report. However, staff believes that the sentence proposed by the county maybe misleading. The new sentence will read: "Wilmington Drain collects runoff from the surrounding Cities of Lomita, Torrance, Carson, and Los Angeles, and then discharges over 50 percent of the water into Machado Lake</p>

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				at the northeast corner.”
4-1.7	County of Los Angeles, Department of Public Works	May 3	Also, Public Works requests replacing the last sentence of the third paragraph in Section F of Page 11 with the following: "Storm water discharged into the Wilmington Drain from the surrounding cities will flood this area and carry trash to the Machado Lake during wet seasons."	Comment noted. The sentence will be changed in the Staff Report.
4-1.8	County of Los Angeles, Department of Public Works	May 3	Finally, as a general comment, "Harbor City" is not a separately incorporated jurisdiction, but rather is part of the City of Los Angeles. All references to "Harbor City" in the Staff Report except for "Harbor City Drain" should be replaced by a reference to the City of Los Angeles.	Comment noted. All references to Harbor City in the staff report, except for "Harbor City Drain" will be replaced to reference the City of Los Angeles.
4-1.9	County of Los Angeles, Department of Public Works	May 3	Although the title of Figure 1 indicates that the watershed boundary includes Machado Lake and Wilmington Drain subwatershed, the boundary shown in the figure only includes the Wilmington Drain subwatershed and does not include the Machado Lake portion of the subwatershed. Public Works requests that the figure be, revised to show the watershed boundary including the area around the lake, to account for local flow into the lake from the surrounding area.	The figure will be revised to show the Machado Lake portion of the subwatershed in the Staff Report.
4-1.10	County of Los Angeles, Department of Public Works	May 3	Public Works is unclear as to how Regional Board staff calculated the WLA and LA shown in Tables 5 and 6, respectively, of the Staff Report from the information provided in Appendices II and III. We therefore respectfully request that Regional Board staff provide detail on the procedures followed and the assumptions used in determining the WLA and LA from the data provided in these Appendices.	Both waste load allocations and load allocations were calculated according to the surface areas of land uses which necessarily are subject to either point or nonpoint source trash discharges. The land use map is provided and will be included in the Staff Report to address this comment.
4-1.11	County of Los Angeles, Department of Public Works	May 3	Section 4.1, Program Alternatives discussion: The SED discusses three alternatives to the "project," which is the establishment of a trash TMDL for Machado Lake. The three alternatives discussed are the proposed Regional Board TMDL (the proposed BPA), a TMDL established by U.S. EPA and a no program alternative.	The substitute environmental documents analyze three program-level alternatives. The "No Program" alternative is not the same as an EPA established TMDL. An EPA established

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			<p>The SED states that a "No Project TMDL" is "unlawful" because it assumes that neither the U.S. EPA nor the Regional Board establishes a TMDL. However, the Regional Board is not in fact required to establish a TMDL for Machado Lake, as is noted on page 14 of the SED. If the Regional Board fails to establish a TMDL, U.S. EPA will establish the TMDL. Thus, the "No Project TMDL" is a viable option for the Regional Board to consider.</p>	<p>TMDL is considered as a separate alternative. The "No Program" alternative is defined as a situation in which neither the Regional Board nor US EPA establishes a TMDL. This is not a feasible alternative because it is unlawful and represents continued trash impairment of the environment, in violation of law, particularly section 303(d) of the Clean Water Act, which requires the state to establish a TMDL to attain water quality standards. Contrary to the commenter's suggestion, the fact that the Clean Water Act contains no enforcement mechanism to compel the state to comply with its mandate, it is nevertheless a federal mandate, and failing to abide by the mandate would be unlawful. In Water Code section 13160, the legislature delegated to the State Board, and by extension, the Regional Board, the authority to implement the Clean Water Act. CEQA does not require the Regional Board to justify on a case by case basis why it will not abdicate that responsibility. The alternative is unlawful, and therefore not feasible.</p>
4-1.12	County of Los Angeles, Department	May 3	<p>There are also additional alternatives to the proposed BPA that could and should have been discussed in the SED. These include the adoption of voluntary efforts, through a Memorandum of</p>	<p>The comment is directed to the form of the regulation as opposed to the environmental impacts from the</p>

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	of Public Works		<p>Understanding or other vehicle by various parties to achieve the WLAs and LAs; adopting a watershed TMDL that examines all pollutants of concern for which Machado Lake has been listed as impaired, and then adopting a consolidated TMDL addressing all such pollutants; preparation of third-party TMDLs, that involve efforts by stakeholders and the public to devise TMDLs, rather than have them imposed by regulatory agencies (see <i>Third-Party TMDL Development Tool Kit</i>, a 2007 publication funded by U.S. EPA); or, preparation of a TMDL through the Clean Water Act Section 102 watershed planning process, coordinated by the Southern California Association of Governments. Public Works respectfully suggests that these alternatives to the proposed BPA should have been discussed in the SED.</p>	<p>regulation. CEQA is not concerned with an examination of alternatives that might obviate Regional Board regulatory action relating to waters under another agency's concurrent jurisdiction, unless, that is, such alternatives are likely to result in less significant environmental impacts than the proposed project. The commenter has made no such showing in that regard.</p> <p>In fact, none of the proposed alternatives, even if feasible, would reasonably result in less significant adverse impacts. All potential impacts emanating from the project as proposed result from the implementation actions selected to comply with the TMDL. Neither voluntary measures, nor a memorandum of understanding, as opposed to a Regional Board's permit or order would in any way alter the manner in which compliance could be achieved. Those implementing the TMDL would still be required to implement the same types of structural and non-structural BMPs, including manual trash collection, that were discussed in the SED, whether they were required by an MOU, a consolidated or watershed TMDL, or a</p>

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				<p>third-party TMDL. Indeed the TMDL as proposed preserves broad discretion on the manner of compliance, which of course, is mandated by Water Code section 13360. Therefore, further analysis of these additional “alternatives” is not necessary, and would not be CEQA-relevant. Likewise, EPA’s encouragement of stakeholders developing their own implementation plans (in the publication cited by the commenter) does not suggest how any impacts from this TMDL could be lessened through a TMDL implementation plan designed by the stakeholders.</p> <p>To the extent the commenter is suggesting alternatives where the Regional Board might allow another entity to establish the TMDL (as opposed to designing the implementation plan, discussed above), those alternatives are inconsistent with (a) CWA section 303(d), which requires the “state” to establish the TMDLs; (b) Water Code section 13160, which delegates to the Water Board the responsibility to implement the Clean Water Act; (c) state policy for water quality control¹; and (d) the mission of the Water Boards. Nothing in section</p>

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				<p>303(d) authorizes an alternative to a state established TMDL (except an EPA established TMDL), and nothing in Water Code section 13160 authorizes the Regional Board to delegate the authority therein to stakeholders. Section 303(d) does not authorize a section 102 planning process as an alternative to a TMDL either. It says “each state shall establish...”</p> <p>Accordingly, alternatives that would involve no TMDL (as discussed in the SED), or a TMDL established (as opposed to implemented) by third parties, are not legal, and are therefore not feasible.</p> <p>Notably, the TMDL project is only necessary because the Legg Lake stakeholders have failed to adequately engage their own regulatory or voluntary efforts to attain water quality standards. Legg Lake has been identified on the 303(d) list as impaired by trash since 1998, yet the Lake remains impaired. During the nine years that this water has been identified as impaired, no stakeholders, third parties, or local regulatory bodies have come forward to propose any mechanisms to the Regional Board to resolve the impairment. With a consent</p>

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				<p>decree deadline of March 2012, staff believe it neither feasible nor reasonable to defer regulatory action further in hopes that these stakeholders may be willing to do that which they have not for the last decade. Nevertheless, the Regional Board can revise the basin plan at any time, and should the stakeholders submit an appropriate proposal for alternative implementation, staff would welcome and give due consideration to any such proposal that is consistent with the assumptions of the TMDL and contains reasonable assurances that water quality standards would be attained in a timely manner.</p> <p>1. “[T]he Regional Board [may not] delegate its authority over water quality control to another regulatory or non-regulatory entity. In all cases the Regional Board must determine the LC [TMDL] of the water body, and thus the load reductions necessary (considering seasonal variations and a margin of safety) to attain standards. The Regional Board must exercise its independent discretion to determine whether or not ... [an] alternative [implementation] program is consistent with the LC.”</p> <p>Water Quality Control Policy for Addressing Impaired Waters:</p>

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				Regulatory Structure and Options (June 1, 2005)
4-1.13	County of Los Angeles, Department of Public Works	May 3	The correction indicated in 2.A. above is also requested in the second sentence of the third paragraph under Section 6.1.3. in Page 40.	See response 4-1.6
4-1.14	County of Los Angeles, Department of Public Works	May 3	The ownership of the storm drains in the area was incorrectly described in Section 6.1.3.2. <u>Requested Action:</u> Replace the last sentence of the first paragraph in Section 6.1.3.2 with "Some of the major storm drain systems in Machado Lake TMDL area are owned and operated by the Los Angeles County Flood Control District, while all remaining local storm drains are owned by the local-municipalities."	Comment noted. Staff has changed this sentence.
4-2.1	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Wind as Transport Mechanism for Trash: A key item in the proposed Trash TMDL for Machado Lake is the Regional Board's definition of non-point sources and point sources. Whereas the definition of a point source is fairly clear, the definition of a non-point source is not as clear. Non-point source pollution (NPS) does not come from a single source like a storm drain; it comes from many different sources. The Regional Board has stated that non-point sources are a "function of transport mechanisms including wind and stormwater." However, formal definitions (p.52 of the staff report and EPA's definition) of non-point sources do not include wind as a transport mechanism for pollution. The City acknowledges that it would be responsible for trash on its property and that through the implementation of institutional measures and good housekeeping practices such trash should be prevented from entering the Lake. However, the City should not be responsible for trash blown onto its property from adjoining property, such as streets operated by Caltrans, or	Staff disagrees that the City should not be held responsible for trash blown onto its property. The City is the operator of facilities on Machado Lake, and Section V of Nonpoint Source Policy, page 15, clearly defines: "[I]ndividual dischargers, including both landowners and operators, continue to bear ultimate responsibility for complying with a RWQCB's water quality requirements and orders."

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			<p>other jurisdictions named or not named in the TMDL. Requested Action: The City requests that the Regional Board recognize that wind-blown trash may come from property not adjacent to the Lake, and not hold the City responsible for this trash, especially if it is blown directly into the Lake.</p>	
4-2.2	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Non-point Sources: Los Angeles Harbor College (LAHC) is adjacent to Machado Lake, operates a golf driving range, and golf balls frequently land in the Lake. This is one additional NPS. LAHC is a member of the Los Angeles City College District. LAHC is not on City property and is in an unlisted jurisdiction, possibly a state facility. Requested Action: The City requests that the Regional Board re-evaluate their findings and assign a Load Allocation to LAHC.</p>	Educational institutions are not covered in the stormwater permit. Staff intends to work with LAHC to develop appropriate data to include in the TMDL for point source and nonpoint source. A waste load allocation will be assigned at the first reopening of this TMDL.
4-2.3	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Non-point Sources as Major Contributors of Trash (Staff Report p. 13): The staff report concludes that the major contributors of trash to the Lake are non-point sources, owing to the large open space and park. Based on our trash collection efforts conducted twice a week for the last six (6) months, the City disagrees with that finding. Based on our observations, staff estimates that approximately 80% of the trash is conveyed through point sources (storm drains). Additionally, the Staff Report lists the WLA as over 100,000 gal/yr, and the LA as 435 gal/yr. These statements show that the non-point sources are a smaller source than point sources. Requested Action: The City requests that the Regional Board note the WLA and LA calculations and amend the staff report and environmental document to reflect that the major contributors of trash to the Lake are point sources.</p>	Comment noted. The Staff Report will be revised to reflect the City's observation once the City of Los Angeles provides more accurate data.
4-2.4	City of Los Angeles, Department	May 4	Assignment of Responsibilities to Upstream Jurisdictions in the Machado Lake Subwatershed: The City appreciates the efforts of the Los Angeles Regional Water Quality Control Board	Comment noted.

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	of Public Works, Bureau of Sanitation		(Regional Board) to include upstream jurisdictions in the waste load allocations (WLAs). Including these jurisdictions allows responsibility for reducing trash in the Lake to be shared by all, and not just the downstream contributors.	
4-2.5	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Assignment of Responsibilities to Upstream Jurisdictions in the Machado Lake Subwatershed: Unfortunately, one contributor has been overlooked. LAHC has a storm drain that flows directly into the Lake. As such, it is not an upstream contributor, but a direct contributor to the Lake, and could be a significant contributor of trash.</p> <p>Requested Action: The Regional Board should assign a WLA to LAHC for its contribution, and LAHC should be included in the Implementation Schedule.</p>	See response to 4-2.2
4-2.6	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Baseline Waste Load Allocation (Staff Report p. 16, 19): The Baseline WLA summary figures on Table 5 for each responsible jurisdiction do not correspond to those found in Appendix III. The correct figures need to be used consistently throughout both tables.</p> <p>Requested Actions: The Regional Board should produce the final, corrected figures for WLAs.</p>	Staff agrees. The figures were corrected and used consistently.
4-2.7	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Additionally, the stated quantity of 5,334 gallons of uncompressed trash per square mile (trash/mi²) (Staff Report p.16) does not seem to be used to generate the Baseline WLA, based on the responsible jurisdiction's area in either Table 5 or Appendix III. These values are in unrelated units of gallons per year (gal/yr) or pounds per year (lbs/yr), respectively. There are additional related errors on page 19.</p> <p>Requested Actions: Also, the Regional Board should allocate the baseline waste load allocation in pounds per year (lbs/yr) instead of gallons per year (gal/yr). Current maintenance collection operations report in units of pounds. If gal/yr remains, the Regional Board should provide the conversion factor "gal/lb" to</p>	Calculation of WLA does not include areas of transportation, open space, agriculture, and water since some may have different responsible jurisdictions, or are considered as nonpoint sources. However, the Staff Report will be revised to ensure that WLAs are calculated correctly. Responsible jurisdictions may reference the Caltrans study for conversion factors of gal/lb.

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			convert lbs/yr to gal/yr.	
4-2.8	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Waste Load Allocations (Staff Report p. 16): Assuming the Baseline WLA of 5334 gallons of uncompressed trash per square mile per year is correct, the calculations used to derive WLA for specific cities appear to be incorrect. Table 4 in the Staff Report presents the preliminary Baseline WLA for responsible jurisdictions. By utilizing the formula provided on page 16 to calculate the WLA for each city, the numbers are incorrect.	See response to 4-2.7. The BPA has been revised to be consistent with the Staff Report.
4-2.9	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Furthermore, allocations for specific land uses are not provided. Details are provided in Appendix I on the different land uses; however the allocations are not shown.	Allocations for specific land uses are provided in Appendix III, in the table entitled “Waste Load Allocations for Trash per Land Use in Each City.”
4-2.10	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Load Allocations (Staff Report p. 19): As with the WLA, the calculations for Load Allocations (LA) on page 19 and later are either missing critical information or are incorrect. Requested Action (Comments 6 and 7): The City requests that all assumptions (including land use area and allocations for the land use), calculations, and conclusions be clearly presented for both WLAs and LAs.	Load Allocation for the City of Los Angeles is determined by the surface area at the Ken Malloy Harbor Regional Park. City may submit its measurement, should it be different from information in Regional Board’s GIS system.
4-2.11	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Figures (Staff Report p. 20): Appropriate figures need to be included to support the findings. Figure 4 on page 20 does not identify the land uses in the Machado Lake subwatershed. Requested Action: The City requests that the Regional Board include map with information on land uses and zoning to illustrate the land uses in the Machado Lake subwatershed and use the information on the map to identify land uses and other facts.	Staff will include a map with information on land uses and zoning to illustrate the land uses in the Machado Lake subwatershed and use the information on the map to identify land uses and other facts.
4-2.12	City of Los Angeles,	May 4	Development of the Trash Monitoring and Reporting Plan (TMRP): The Implementation Schedule allows just two months	The Regional Board will change the implementation schedule to give

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	Department of Public Works, Bureau of Sanitation		to develop the TMRP. This plan must be comprehensive including assessment and quantification of trash collected from the surfaces of the shoreline. Responsible jurisdictions are required to devise a metric to measure the amount of trash in the Lake and shoreline. Additionally, responsible jurisdictions may provide data for revision of the baseline WLAs and LA, to determine the effectiveness of Best Management Practices (BMPs), and to assess compliance with the TMDL. The TMRP would need to be approved by all responsible jurisdictions. Simply getting this approval will take more than two months. Requested Action: The City requests that the Regional Board support the TMRP by instituting a feasible schedule of two years to execute a Memorandum of Agreement (MOA) between the responsible jurisdictions and to develop the TMRP. This time would allow for discussions between responsible jurisdictions on costs and BMP implementation, and time to agree on the TMRP. This change would create an implementation plan with a total time of 10 years.	responsible jurisdictions 90 days to develop their TMRP. Staff believes that the level of coordination will be minimal, as the City of Los Angeles is the only nonpoint source responsible jurisdiction. Staff does not see a high level of coordination needed for the point source responsible jurisdictions. In addition, the responsible jurisdictions would not need to provide data for the revision of the baseline WLAs until 2 years from the effective date of the TMDL.
4-2.13	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Implementation and Compliance (Staff Report p. 21): The City has concerns with any requirement that would necessitate sorting or characterizing the trash collected in any monitoring plan to achieve compliance. Sorting/characterizing of trash is not practical and will add an unnecessary burden to the maintenance activity. The County of Los Angeles' study of 2002/03 and 2003/04 referenced in the waste load allocation section may be used to determine an adjustment factor to translate the weight of unsorted trash to sorted trash if that information is truly necessary for reporting compliance. Requested Action. Clarity needs to be provided for both the point and non-point sources for reporting compliance while using the Minimum Frequency of Assessment and Collection (MFAC) method.	The plan shall provide details of the frequency, location, and reporting of trash monitoring. A metric (e.g., weight, volume, piece of trash) will be proposed to measure the amount of trash in the lake and on the land area surrounding the lake. The plan does not call for the sorting or characterization of trash.

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4-2.14	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Trash Monitoring (Staff Report p. 22): In addition to collecting trash from the Lake, the proposed TMDL also establishes requirements for monitoring trash quantities in the vicinity of the waterbody. It has been our understanding that the Regional Board has authority for waterbodies. Therefore, trash collected on the Lake itself will be used to develop the baseline. Requested Action: The Staff Report should clarify that trash collected in the Lake will be measured and this value will create the baseline WLAs and LAs. Also, all references to implementing BMPs and the MFAC from land should be removed from the Staff Report.	Much of the trash on the shoreline and surrounding the lake will be transported to the waterbody through wind and stormwater. The Regional Board has the authority to regulate actions which affect water quality.
4-2.15	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Minimum Frequency of Assessment and Collection (Staff Report p. 24): The City is concerned that the MFAC is being set on a daily basis, seven (7) days per week, 365 days per year. This would require the City to have staff on site, seven days per week, 24 hours per day, and at minimum require the authorization of extensive overtime and weekend work. Requested Action: The City requests that MFAC be established at five (5) days per week.	Staff does not disagree with the City's MFAC proposal of 5 days per week. The BPA has been revised to address this comment.
4-2.16	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	Load Allocations and Full Capture Devices: Assuming that all efforts will be made to come into compliance from point sources through the use of full capture devices when feasible, the definition of a full capture device needs to be included, and should be similar to that found in the Los Angeles River Trash TMDL document.	The definition of full capture device is included on page 24 of the staff report, under Full Capture Treatment Systems. It is also included in Section XVII, Definitions.
4-2.17	City of Los Angeles, Department of Public Works, Bureau of	May 4	Load Allocations and Full Capture Devices: The Machado Lake Trash TMDL should acknowledge that storms greater than the 1 yr/1 hr criteria may carry trash onto the Lake and that event will not be used to determine non-point source compliance. Requested Actions: The Regional Board should also adapt the MFAC so that storms greater than 1 yr/1 hr that carry trash to the	The responsible jurisdiction can define their critical conditions, which they must submit for approval by the Executive Officer. The City may include the 1 yr/1hr storm as a critical condition.

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	Sanitation		Lake do not cause non-point source non-compliance.	
4-2.18	City of Los Angeles, Department of Public Works, Bureau of Sanitation	May 4	<p>Trash Collection Efforts: The City does not agree with the Regional Board's findings that it would take a staff person four (4) hours daily to monitor and collect trash from the entire surface of the Lake. Current City estimates suggest that it takes a minimum of 60 staff hours per week for trash removal, and significantly more after rains. As proposed, the TMDL will also require monitoring of trash from the perimeter of the Lake and recording amounts of trash found. To comply with the proposed TMDL, the City will require additional staff and resources. A trash collection boat will be necessary, as well as education, safety equipment and training. The City will also be required to amend gardener/caretaker job duties and classifications to include work on the Lake. For trash collection alone, the staff estimates that it will require at minimum an additional 80 staff hours per week.</p> <p>Requested Action: The Regional Board should reconsider the amount of effort the MFAC will require and redefine the MFAC accordingly.</p>	<p>The Regional Board provided a rough estimate of costs for the comparison of methods. Each responsible jurisdiction may choose the one that they feel can accommodate them the best. Regional Board is prohibited from prescribing the manner of compliance, so it is not possible for staff to determine the cost at the level of detail requested. The Regional Board appreciates that the city may come up with a different cost based on their intimate knowledge.</p>
4-3.1	Heal the Bay	May 4	<p>We strongly support the Regional Board's requirement of zero trash discharge in the Draft TMDLs. The Regional Board acknowledged that a zero trash discharge requirement was an appropriate piece of regulation with the adoption of the LA River Trash TMDL in 2001, and subsequent legal decisions regarding this Trash TMDL by the judicial system further validates this limit. In the same vein, zero trash limits in the Draft Trash TMDLs meet the threshold of attaining and maintaining water quality standards as set forth in the Clean Water Act.</p>	<p>Comment noted.</p>
4-3.2	Heal the Bay	May 4	<p>However, we have serious concerns that several requirements in the Draft TMDLs are in direct conflict with the zero trash waste load allocations, and thus do not pave the way for water quality</p>	<p>Staff disagrees. Manual collection of trash in the receiving water bodies is essential to attaining the goal of zero</p>

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			standards attainment in these waterbodies. First, implementation of the Minimum Frequency and Collection Program as outlined in the Draft TMDLs is unlikely to lead to compliance with the zero trash limits. Also, the implementation schedule for nonpoint sources contradicts the established limits. These concerns and others are discussed in further detail below.	trash. The minimum frequency program will achieve the zero waste load allocation as discussed below.
4-3.3	Heal the Bay	May 4	<p><i>Staff correctly assigns a TMDL of zero trash.</i></p> <p>The Draft Trash TMDLs establish a numeric target of zero trash, a final Waste Load Allocation (“WLA”) of zero trash and a final Load Allocation (“LA”) of zero trash. We strongly support these requirements, as zero is the only appropriate TMDL for trash given the water quality standards for these waterbodies set forth in the Basin Plan and Clean Water Act requirements.</p> <p>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 any lack of knowledge concerning the relationship between effluent limitations and water quality.”¹ The Basin Plan calls for no floatables or settleables that will cause a nuisance or adversely affect beneficial uses. Even small quantities of trash violate the Clean Water Act and Basin Plan. For instance, small amounts of trash can maim or kill wildlife that becomes entangled in, or ingests, the debris. Plainly, zero is the only fair interpretation of the Basin Plan water quality standards that will guarantee protection of the beneficial uses of these waterbodies with an appropriate margin of safety. Also after numerous legal challenges by the regulated community, the courts upheld the LA River Trash TMDL zero trash limit as an appropriate piece of legislation. Thus, the Regional Board staff’s proposal of zero trash discharge is, clearly, appropriate.</p>	Comment noted.
4-3.4	Heal the Bay	May 4	While we support the idea of clean-up programs to handle trash,	The watersheds of this TMDL are

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			<p>the MFAC as a stand-alone program is unlikely to compliance with final WLAs and LAs.</p> <p>The MFAC Program should be over and above the full capture device concept, not in lieu of this established concept. BMPs used to address nonpoint sources must be the functional equivalent of a full capture system at a minimum. Further, full capture devices may be appropriate for discharges other than storm drains, such as irrigation ditches. As seen in the field, by themselves, full capture devices do not fully address the problem of a trash impairment. For instance there are thousands of full capture devices installed throughout Compton Creek Watershed; however, enormous volumes of trash still impair Compton Creek. Volunteer Creek clean-up efforts routinely remove over 10,000 pounds of trash in a two to three hour period. In fact the State Board recently listed Compton Creek as impaired by trash on the 2006 303(d) List of Impaired Waterbodies. Thus, the MFAC Program in addition to a full capture device concept is appropriate. If and only if there is no logical application of the full capture device concept to nonpoint sources should a MFAC Program alone be pursued. Under no circumstances should a MFAC Program be allowed as a functional equivalent for meeting the zero trash limit or as a full capture device on a point source.</p>	<p>different from that of the Los Angeles River where full capture devices are appropriate. The watersheds of this TMDL load a greater proportion of trash from nonpoint sources. In some cases, full-capture devices provide minimal source reduction would not attain a zero trash target. Responsible jurisdictions require greater flexibility for a number of site specific reasons, including but not limited to flooding, extensive non-point source loading, potential for effectiveness of BMPs.</p>
4-3.5	Heal the Bay	May 4	<p>The Implementation Schedule should require a 100% reduction of trash from the baseline for point and nonpoint sources. The final compliance task included in the Draft TMDLs' Implementation Schedules for nonpoint sources is the installation of BMPs to achieve 50% reduction of trash from Baseline WLAs and LAs. This is inconsistent with the prescribed final WLAs and LAs of zero trash.</p> <p>In no shape or form does a 50% reduction of trash from the baseline lead to the zero trash target. Thus, a final WLA or LA of</p>	<p>Staff has revised the BPA to remove the 50% reduction of trash from the Baseline. The MFAC implements zero trash numeric target by attaining a zero trash target on days of collection and a collection frequency that does not allow trash to accumulate in deleterious amounts.</p>

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			50% reduction from baseline is in direct conflict with a zero trash limit. Instead, the Regional Board must require a 100% reduction of trash from the baseline in order to meet the zero trash target.	
4-3.6	Heal the Bay	May 4	<p>The source analysis should consider trash from upstream discharges.</p> <p>The source analysis sections in the Draft TMDLs discuss three sources of trash to the impaired waterbodies: storm drains, wind action and direct disposal. However, this analysis is missing a critical source of trash. Streams and other drainages discharging into the impaired Lakes and Estuaries are major sources of trash. For instance, the Ventura River that runs through several urban areas discharges into the Ventura River Estuary and is a source of trash to the Estuary. As another example, the Wilmington Drain empties into Machado Lake and is the major source of trash to the Lake. In fact Proposition O funding was approved by the City of Los Angeles for a larger project (a \$117 million restoration and clean up project) that includes targeting trash from the Wilmington Drainage, a 12,800 acre drainage area. Final WLAs will never be met until streams and drainages are addressed as a source. The Regional Board should evaluate these major sources of trash and require full capture devices throughout the watersheds of streams and drainages that discharge to the impaired waterbodies.</p>	The TMDL does consider trash from upstream discharges for those watersheds where upstream sources are an issue. Upstream sources include MS4s, agricultural drainages, and tributaries to 303(d) listed water bodies.
4-3.7	Heal the Bay	May 4	<p>Trash that is currently within the impaired waterbodies should be considered in the baseline calculations.</p> <p>The Draft TMDLs focus on trash that is visible on the shores and surface of the impaired waterbodies. However, the Draft TMDLs fail to address trash below the surface of the waterbody that also contributes to violations of water quality objectives and impairs beneficial uses. Maintenance dredging activities such as those conducted in Marina del Rey demonstrate the large volume of trash that can be located in the sediment of a waterbody.</p>	Staff agrees and notes that the Marina del Rey example cited in the comment may not be applicable to Machado Lake. Nevertheless, the Staff Report will be revised such that when the lake cleaning operations are implemented, the recovered trash is disposed of properly.

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			<p>Trash within the waterbodies should be considered when developing appropriate baseline values and eventually in determining compliance with WLAs and LAs. For instance, there is likely an underestimation of the baseline load, as only trash around the waterbodies and on the surface was considered. The Draft TMDLs did not consider that a significant portion of the load sinks to the bottom of the receiving water. To address this problem, the Regional Board could estimate that their current calculations do not account for 25% of the true baseline load. Additional assessment of this source could lead to a better estimate at a later date. The Regional Board should consider this source of trash in their development of the Draft TMDLs and appropriate baselines.</p>	
4-3.8	Heal the Bay	May 4	<p>The Regional Board should develop a definition for a major rain event.</p> <p>As part of the MFAC monitoring program, the Draft TMDLs require that the discharger develop a definition for a major rain event. This is an inappropriate task for a discharger and would facilitate varied definitions throughout the Region. Instead, the Regional Board should develop a definition. We propose that a major rain event for monitoring purposes be defined as 0.25” or more predicted rainfall based on the National Weather Service forecast. If the actual rain event is 0.1” or greater, the data would be kept.</p> <p>The MFAC Program in the Draft Lake Elizabeth, Munz Lake and Lake Hughes Trash TMDL sets a default minimum clean-up frequency as once per week and within 48 hours of critical conditions defined as major rain events and wind advisories. Again in this case, the Regional Board should define a major rain event.</p>	<p>Staff notes that a single rain event may not be appropriate across the Region. The widely different land uses, permeability, and topography are such that trash mobilization is different in precipitation events. The TMDL authorizes the EXECUTIVE OFFICER to approve a rain event definition in the early stages of the TMDL, based on stakeholder input.</p>
4-3.9	Heal the Bay	May 4	<p>The Regional Board should encourage steady progress to final</p>	<p>Staff agrees. The BPA has been revised</p>

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			<p>Waste Load Allocations. The Draft TMDLs specify that “compliance with percent reductions from the Baseline WLA will be assumed wherever full capture systems are installed in corresponding percentages of the storm drain system discharging to the lake.” The Regional Board should encourage dischargers to tackle point sources with the highest loadings first so that major trash reductions are not back-loaded to the end of the compliance schedule.</p>	<p>to include language addressing the importance of prioritizing highest point source loading. The Wasteload reductions specified in the TMDL implementation schedule represent steady progress toward final Waste Load Allocations.</p>
4-3.10	Heal the Bay	May 4	<p>Datasets and calculations for the Baseline WLAs and LAs should be included in the Staff Reports. The Draft TMDLs establish Baseline WLAs and LAs based on several datasets such as data collected by the City of Calabasas for a Continuous Deflective Separator (CDS) installed in December of 1998 for runoff from Calabasas Park Hills to Las Virgenes Creek. However, these datasets are not included in the staff reports so it is impossible to review the appropriateness of the Baseline WLAs and LAs. The Regional Board should incorporate these datasets into the Staff Reports.</p>	<p>The Staff Report will be revised to correct cited errors.</p>
4-4.1	USEPA	May 4	<p>My initial review suggests the six draft TMDL staff reports have reasonably defined impairment assessments, calculated waste load and load allocations, considered critical conditions and provided a margin of safety.</p>	<p>Comment noted.</p>
4-4.2	USEPA	May 4	<p>The TMDLs appropriately set the numeric target at zero trash, and included phased reduction tasks from defined baseline waste load and load allocations (WLA and LA).</p>	<p>Comment noted.</p>
4-4.3	USEPA	May 4	<p>The critical portion of these TMDLs is the implementation plans, which define in detail the steps for achieving zero trash in a set time frame. In addressing non-point sources, each TMDL practically establishes a program of Minimum Frequency of Assessment and Collection (MFAC) and installation of Best Management Practices (BMPs) to address the trash impairment problem. However, at the end of the 5 year compliance schedule,</p>	<p>Staff has revised the BPA to remove the 50% reduction of trash from the Baseline. The MFAC implements zero trash numeric target by attaining a zero trash target on days of collection and a collection frequency that does not allow trash to accumulate in deleterious</p>

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			final compliance achievement for non-point sources is defined as “progressive decline of trash by 50% from the baseline WLA and LA.” Please clarify how 100% reduction of trash from the baseline LA will be achieved.	amounts.
4-4.4	Cindy Lin	May 4	The trash TMDLs for Legg Lake, Machado Lake, Ventura River Estuary, Revolon Slough and Beardsley Wash, and Santa Clara River included a final compliance schedule of eight years to achieve the final TMDL target of zero trash for WLA. However, the Los Angeles trash TMDL provided an additional year to responsible parties for achieving the final WLA, based on a 3 year rolling average. Please explain the basis for the differences between the compliance schedules and overall approach towards WLAs.	The difference is that the Los Angeles River trash TMDL addresses a larger watershed than any of the other trash TMDLs, where the waterbodies are both smaller and more homogeneous. Averaging is thereby appropriate for the Los Angeles River watershed.
4-5.1	Caltrans	May 2(Rev'd 5/7 via email)	The Department is concerned with the implementation of full capture devices as recommended by the Regional Board staff. Our major concern is that these devices may not be compatible with the structural controls that may be required for subsequent TMDLs developed for the lake. The nutrient TMDL currently being developed, for example, will require implementation of different structural devices to achieve TMDL allocations.	The structural devices required for trash are limited in this TMDL. The TMDL largely focuses on manual collection and non-structural BMPs. We see no incompatibility in the implementation of the trash TMDL and other TMDLs because of the limited need for structural BMPs in this TMDL. Furthermore, trash removal BMPs can be used with other structural BMPs to remove additional pollutants..
4-5.2	Caltrans	May 2(Rev'd 5/7 via email)	We encourage Regional Board Staff to coordinate the compliance schedule for this TMDL to be compatible with the upcoming nutrient TMDL. This would help the Department (as well as the other dischargers) with effective planning of resources and implementation of controls to meet the requirements of both TMDLs.	While compliance measures for trash reduction and nutrient reduction may not overlap, Staff for both TMDLs and stakeholders in the watershed will work together as the nutrient TMDL is developed to ensure appropriate coordination.

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