

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

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

No.	Author	Date	Comment	Response
5-1.1	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>Explanation: 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 .
5-1.2	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> In Tables 7-27-2a and 7-27-2b, all references to "the County of Los Angeles" (see comment above) should be footnoted and a footnote added to the table stating: "Although no unincorporated county area is identified to drain into point source storm drains, nevertheless the County of Los Angeles is included in the table."</p> <p>Explanation: Public Works personnel have field surveyed and reviewed other records and determined that no County unincorporated area drains into point source storm drains that convey runoff from the Cities of El Monte and South El Monte and which empty into Legg Lake. The two storm drains into Legg Lake (Drain Nos: 1213 and 529) convey surface runoff from parts of the Cities of El Monte and South El Monte. The</p>	The Staff Report will be revised to address this comment.

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			<p>drains, which are underground, include no laterals, catch basins or other points of entry after they enter unincorporated County area. All stormwater falling within unincorporated County area, the Whittier Narrows Recreational Area, is retained and percolated within the unpaved park.</p> <p>The two drains themselves are maintained by the County. The footnote suggested in the comment above is intended to reflect that fact and to differentiate the County's role for point source responsibility from that of the two cities.</p>	
5-1.3	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> Add implementation and monitoring requirements for Caltrans to proposed BPA.</p> <p>Explanation: Because it is identified as responsible for point source discharges of trash to Legg Lake, the proposed BPA should include separate Tables, similar to Tables 7-27.2a and 7-27.2b, listing a full capture implementation or Minimum Frequency Assessment and Collection schedules for Caltrans. Alternatively, the two existing tables could be amended to include Caltrans. The failure to include Caltrans in the proposed BPA appears to be an oversight, since the Staff Report, on page 23, indicates that discharges of trash from storm drains to Legg Lake "will be regulated through the Municipal NPDES Storm Water Permit for...Caltrans." Caltrans is also listed as a "responsible jurisdiction" in Table 7 of the Staff Report.</p>	Comment noted. Staff has revised the BPA to address this comment.
5-1.4	County of Los Angeles, Department of Public Works	May 3	<p><u>Requested Action:</u> The definition and intent of "Minimum Frequency of Assessment and Collection (MFAC)" should be clarified.</p> <p>Explanation: Public Works understands that the MFAC intends to set the maximum maintenance requirement that can be most</p>	Staff has revised the tentative Basin Plan Amendment to clarify that the MFAC defines the minimum frequency that agencies must assess and collect trash from waterbodies to comply with the TMDL. The initial frequency for

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			<p>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 requirements."</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. Alternatively, the initially proposed frequency could be increased but no more frequent than once a day. If "maximum frequency requirements" of once per day is- ultimately adopted, it would automatically establish "compliance with TMDL" even if the progressive reduction schedule set forth in Table 7-27.2b was not met.</p>	<p>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>Staff notes that the County had not submitted any support for its statement that more than once per day is "practically unachievable". The frequency of once per day may or may not be adequate to prevent from accumulating in amounts that are deleterious.</p>
5-1.5	County of Los Angeles, Department of Public Works	May 3	<p>Requested Action: Add a provision to Table 7-27.2b of BPA and Table 10 of Staff Report indicating, "Compliance with Waste Load Allocations (WLA) and Load Allocations (LA) is assumed if the implementation follows the schedule in the table or MFAC of once per day is adopted." Explanation: Table 7-27.2b of the proposed BPA and Table 10 of Staff Report do not indicate when</p>	<p>Staff agrees. The BPA has been revised to incorporate the suggested change. However, it is noted that the TMDL contains a provision that the Executive Officer can modify the MFAC if it is shown that the MFAC does not prevent</p>

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			the compliance is achieved under the MFAC option.	trash from accumulating in amounts that are a nuisance or deleterious
5-1.6	County of Los Angeles, Department of Public Works	May 3	<p>The proposed BPA sets forth a numeric target of zero trash in or on the Legg 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 16, concludes simply that based on the narrative objective, "staff finds the capacity of the subject lakes 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.</p> <p>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>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> <p>This TMDL does not prevent the County from submitting reports of the capacity of the lake 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>
5-1.7	County of Los Angeles, Department	May 3	As discussed above, Public Works' investigation, based on field survey and records, reveals that no unincorporated County area drains into the two storm drains that empty into Legg Lake.	Comment noted. The Basin Plan Amendment allocates waste loads to the Cities of El Monte and South El Monte.

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	of Public Works		<p>Figure 5 erroneously defined the downstream boundary of Drainage Areas 1 and 2. The two main storm drains into Legg Lake (Drain NOs. 1213 and 529) convey surface runoff from parts of the Cities of El Monte and South El Monte. As indicated in the last paragraph of Page 19, the point source area boundary is defined by the extent of storm drains from these two cities. The two cities directly adjoin the Whittier Narrow Recreational Area (which is unincorporated County land) where all surface runoff is retained and percolated within the unpaved park.</p> <p>Thus, Public Works is requesting that staff revise Figure 5 in the Staff Report so that the downstream boundaries of Drainage Areas 1 and 2 follow the jurisdictional boundaries of the Cities of El Monte and South El Monte.</p>	The Staff Report will be revised to clarify these allocations.
5-1.8	County of Los Angeles, Department of Public Works	May 3	As discussed above in Comments 1.B. and 2.A., unincorporated County area should not be included in the point source watershed for the two storm drains that convey runoff into Legg Lake. Therefore, Table 5 in the Staff Report should be revised accordingly to delete "Los Angeles County" and its corresponding point source area and baseline WLA.	Comment noted. The Staff Report will be revised to address this comment.
5-1.9	County of Los Angeles, Department of Public Works	May 3	As discussed above in Comment 1.B., in Tables 7, 9 and 10 in the Staff Report, all references to "the County of Los Angeles" should be footnoted and a footnote added to the table stating: "Although no unincorporated county area is identified to drain into point source storm drains, nevertheless the County of Los Angeles is included in the table."	Comment noted. The Staff Report will be revised to address this comment with the inclusion of language that the County of Los Angeles Flood Control District owns and operates the storm drains.
5-1.10	County of Los Angeles, Department	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	Both waste load allocations and load allocations were calculated according to the surface areas of land uses which

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	of Public Works		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.	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.
5-2.1	County of Los Angeles, Department of Parks and Recreation	May 4	<p>Daily trash collection currently consists of picking up litter and trash on the grounds, especially along shorelines, pulling litter and trash from the lakes, pulling out small animal remains such as mice and fish from lakes and removing debris from the drain inlets. Once the trash is bagged a maintenance truck(s) circles the area to collect the bags. Weekly lake trash collection consists of pulling debris (leaves, braches, seeds, and flowers) and weeds that float on the lake surface, blowing and picking up leaves on the grounds and the shoreline. Seasonal lake trash collection consists of trimming trees growing near the shoreline and spraying for weeds and grasses along the shorelines.</p> <p>Heavy load trash collection (after measurable rain or a park event) requires additional staff hours to complete maintenance tasks, compared to normal trash collection operations. WNRA uses a 12-foot, two-person pontoon boat to collect trash on the lake surface (sweeping or skimming). The small boat is also used to apply microbials for reduction of animal fecal matter and other normal lake borne organics. The lake cleaning varies in frequency depending on the time of year, and the number of staff available. Lake sweeping occurs on average of 5 days a month. On average, County grounds maintenance workers spend 1,228 staff hours per month per eight employees on lake/grounds maintenance with the aid of 480 hours per month for 60 community service workers and 192 hours per month for 48 adult crew members for lake/grounds maintenance.</p>	Comment noted. Staff finds that the County's current program of picking up litter and trash along the shoreline leaves amounts of trash that impair beneficial uses and cause deleterious effects between cleanup efforts. Staff have visited the lake on numerous occasions and spoke with park visitors and County personnel. They indicate that shoreline cleaning is less frequent than daily. Staff cannot determine the exact frequency, extent and thoroughness of shoreline cleaning currently implemented by the County.

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			Trash barrels are set out 100 to 150 feet apart along the shore lines and approximately 50 to 100 feet from the shoreline. There is also signage encompassing the lake prohibiting littering, dumping, and swimming.	
5-2.2	County of Los Angeles, Department of Parks and Recreation	May 4	The Department respectfully submits that these requirements are beyond the Regional Board’s legal authority to impose on the County for the simple fact that the County is not a nonpoint source “discharger” of trash, or for that matter any other waste, to Legg Lake. Because the County is not a nonpoint source “discharger,” it is not a responsible jurisdiction, and it cannot be required to obtain a WDR under the Porter-Cologne Act. Because the County cannot be required to obtain a WDR, the County cannot be required to file a notice of intent to be regulated under a conditional waiver of a WDR.	Staff notes that the County of Los Angeles Department of Parks and Recreation operates the lands adjacent to Legg Lake. Therefore, the County of Los Angeles is a responsible jurisdiction subject to regulation under the Porter Cologne Water Quality Control Act. Staff notes that the County Department of Public Works submitted comments on a trash TMDL for Elizabeth Lake, Munz Lake and Lake Hughes (from Donald L. Wolfe to Jonathan Bishop, dated May 3, 2007). In those comments, the County stated that it did not own land or operate facilities, other than storm drains, in the vicinity of Lake Elizabeth, Munz Lake, or Lake Hughes and based on these facts was not a non-point source discharger. That comment letter, which is appended to this response to comments, contradicts the County’s claim here that as the facility operator, it generates the trash by attracting the visitors who litter to the facility. In the case of Legg Lake, the County acknowledges that it operates recreational facilities and implements

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				<p>trash management at the Lake, including skimming and lakeshore cleanup by manual methods.</p> <p>The use of a conditional waiver was selected to present a convenient and minimally obtrusive means to ensure compliance with water quality standards. Nevertheless, in view of the County’s objections to being classified a “discharger” under Water Code sections 13263 or 13269, the basin plan language has been modified to refer to any appropriate means of regulation. This would include, for instance, coverage under an order pursuant to Water Code section 13304, the reach of which is broader than sections 13263 and 13269, and additionally relates to those who has caused or permits waste to be discharged where it probably will be discharged into waters of the state.</p>
5-2.3	County of Los Angeles, Department of Parks and Recreation	May 4	<p>Water Code § 13260 provides that “[a]ny person discharging waste, or proposing to discharge waste, ...that could affect the quality of the waters of the state” must file a report of waste discharge and, pursuant to Water Code § 13263, shall be issued a WDR by the appropriate regional water quality control board.</p> <p>The County is not, however, a “person discharging waste” at Legg Lake. Those persons are the individuals that, contrary to County ordinance, are illegally depositing litter on or adjacent to</p>	<p>Staff disagrees with the statement that “persons discharging waste are the individuals”. Based on California Water Code § 13050, “person” includes any city, county, district, the state, and the United States, to the extent authorized by federal law. The County is generating the waste by attracting the individuals who are littering to recreate</p>

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			Legg Lake.	at its facilities. See response to comment 5-2.2.
5-2.4	County of Los Angeles, Department of Parks and Recreation	May 4	As noted above, the parkland is owned by the U.S. Army Corps of Engineers, not the County. The Department provides facilities for the deposit of trash and collects that trash. However, the County is not itself a “discharger” of that trash. It neither generates or discharges the trash and, as described above, takes steps to discourage such discharges or the placement of trash where it can be discharged to the lake.	Staff disagrees that the County is not a “discharger”. 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.” See response to comment 5-2.2.
5-2.5	County of Los Angeles, Department of Parks and Recreation	May 4	As the County is not a “discharger” of waste subject to the requirements of Water Code §§ 13260 and 13263, so it also is not subject to imposition of a conditional waiver of discharge requirements pursuant to Water Code § 13269. That statute allows the waiver of WDRs otherwise required by Sections 13260 and 13263 (as well as by Water Code § 13264(a), which requires a report of waste discharge prior to a new discharge or material changes in an existing discharge of waste).	Please see the responses to comments 5-2.2 and 5-2.4. The County may be regulated by Waste Discharge Requirements (WDRs), Waiver of WDRs, or prohibitions, and may be regulated under a cleanup and abatement order.
5-2.6	County of Los Angeles, Department of Parks and Recreation	May 4	The Staff Report for the proposed BPA references the State Water Resources Control Board’s 2004 Plan for California’s Nonpoint Source Pollution Control Program. The actual document is entitled “Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program,” dated May 20, 2004 (“Nonpoint Source Policy”). The Staff Report states, on page 16, that the LAs “will be implemented through regulatory mechanisms that implement that State Board’s 2004 Nonpoint Source Policy such as waste discharge requirements or waivers.” The proposed BPA is inconsistent with the Non-Point Source policy. As discussed below, that policy recognizes that entities	Comment noted. See the responses to comments 5-2.2 and 5-2.4.

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			<p>who are not otherwise dischargers are not required to obtain either a WDR or a conditional waiver.</p>	
5-2.7	County of Los Angeles, Department of Parks and Recreation	May 4	<p>In Section IV of the Policy, covering the structuring of a nonpoint source pollution control program to achieve water quality objectives, the State Board provided that the Regional Boards could establish “third-party” programs. In such a “third-party” program, some entity, including a government agency, that is not itself an actual discharger may assist in coordinating the efforts of dischargers.</p> <p>However, the State Board made it clear that, even if the third-party “fails to follow through on [its] commitments, any RWQCB enforcement action taken will be against individual dischargers, not the third-party.” Policy, page 15. This is because, “under the Porter-Cologne Act, the RWQCB cannot take enforcement actions directly against non-discharger third parties.” Id.</p> <p>Thus, while the County could agree to be a voluntary participant in a third-party effort to address nonpoint sources of trash pollution at Legg Lake, as a non-discharger of that trash, the County cannot be subject to either a WDR or a conditional waiver because it is not a “discharger.”</p>	<p>Staff disagrees and notes that the County’s comment states that the County operates the recreational facilities of Legg Lake. The State NPS policy, as well as provisions of the Porter Cologne Water Quality Control Act state that dischargers, including land owners and operators are dischargers (see page 15 of NPS policy). See response to comment 5-2.2.</p>
5-2.8	County of Los Angeles, Department of Parks and Recreation	May 4	<p>First, the Department would respectfully note that the action set forth in the proposed BPA represent a new program or higher level of service without a subvention of state funds. As such, the proposed BPA represents the imposition of an unfunded state mandate. Article XIII B, section 6.</p>	<p>The entire TMDL is compelled by federal law, and as such, is not an unfunded state mandate. The requirement that states develop TMDLs for impaired waters is clearly set forth at 33 U.S.C. 1313(d)-(e). The proposal includes one year for the affected agencies to conduct planning and implementation activities, and to</p>

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				<p>explore and select any necessary funding options, including loans, grants and revenue increases.</p> <p>The TMDL implements the applicable water quality standard, and makes all dischargers (regardless of whether they are private individuals, corporations, or public agencies) responsible for meeting the water quality standard. The requirement to meet water quality standards is not a requirement that is endemic to local government. As a result, the TMDL is generally applicable and not subject to subvention requirements in Article XIII.</p> <p>Furthermore, even if the TMDL were construed as imposing a state mandate, the County has a variety of funding mechanisms available to pay for the requirements of the TMDL, specifically, fees may be charged to facility users to pay for the increased trash abatement efforts.</p> <p>While the Regional Board disagrees with the suggestion that the State of California should bear the County's financial burden associated with its responsibility to clean up after itself and abate the litter its operations are</p>

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				causing, if the County so desires, it is at liberty to file a test claim with the Commission on State Mandates.
5-2.9	County of Los Angeles, Department of Parks and Recreation	May 4	Second, we refer staff to specific comments on the Minimum Frequency of Assessment and Collection (“MFAC”) program set forth in the proposed BPA that were made separately by the County of Los Angeles Department of Public Works. The Department refers to these comments in an effort to assist Regional Board staff in focusing and clarifying the proposed BPA, and not to waive any argument that the proposed BPA in fact applies to the County with respect to nonpoint sources. In particular, we refer to Comments 1.D. and 1.E. made by the Department of Public Works, relating to the definition and intent of the term “Minimum Frequency of Assessment and Collection” and also to the need for a compliance standard for parties electing to comply through the MFAC option in the proposed BPA.	The BPA language has been revised to clarify that the TMDL deems those subject to LAs and WLAs, including the County, in compliance with the TMDL when it implements a MFAC program in accordance with the TMDL.
5-2.10	County of Los Angeles, Department of Parks and Recreation	May 4	Third, the proposed BPA sets forth a numeric target of zero trash in or on Legg Lake and on the shoreline. It should be noted that achieving a zero target is unrealistic, and indeed impossible. There will always be illegal littering. To obtain zero trash would require closing the WNRA to public access. 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 16, concludes simply that based on the narrative objective, “staff finds the capacity of Legg Lake to accumulate trash is zero.” The rationale for the use of the Calabasas Study as the basis for a comparable trash generation rate for Legg Lake needs to be explained as there is no apparent similarity between the two sites.	Since zero is defined as “no trash immediately following each assessment and collection event”, zero is neither impossible nor unrealistic. Staff recognizes the challenges in abating chronic littering and has set forth the several compliance options such as full capture systems and a Minimal Frequency of Assessment and Compliance. The BPA language has been revised to clarify that if a responsible jurisdiction implements of a MFAC program in accordance with the TMDL it will be deemed to be compliant with the TMDL, including

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5-2.11	County of Los Angeles, Department of Parks and Recreation	May 4	Additionally, the Department submits that like the Ballona Trash TMDL and the proposed Los Angeles River TMDL, this BPA should be reopened and reconsidered upon achieving fifty percent reduction in trash.	the zero target for trash. The Implementation Schedule has been revised to include a reconsideration of the TMDL by the Regional Board five years after the effective date of the TMDL.
5-2.12	County of Los Angeles, Department of Parks and Recreation	May 4	Section 4.1, Program Alternatives discussion: The SED discusses three alternatives to the “project,” which is the establishment of a trash TMDL for Legg 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 SED states that a “No Project TMDL” is “unlawful” because it assumes that neither the U.S. EPA or the Regional Board establishes a TMDL. However, the Regional Board is not in fact required to establish a TMDL for Legg 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.	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 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

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				<p>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>
5-2.13	County of Los Angeles, Department of Parks and Recreation	May 4	<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 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 Legg 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 Third-Party TMDL Development Tool Kit, 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. The Department respectfully suggests that these alternatives to the proposed BPA should have been discussed in the SED.</p>	<p>The comment is directed to the form of the regulation as opposed to the environmental impacts from the 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</p>

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				<p>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 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</p>

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				<p>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 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</p>

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				<p>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 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</p>

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				<p>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: Regulatory Structure and Options (June 1, 2005)</p>
5-2.14	County of Los Angeles, Department of Parks and Recreation	May 4	<p>While the skimming of Legg Lake and the cleaning of the shoreline is conducted routinely during the year the proposed BPA would require a substantial increase in these activities. We suggest that the failure to discuss this aspect of the proposed BPA violates the requirement that the SED analyze “the reasonably foreseeable environmental impacts of the methods of compliance.” Pub. Res. Code § 21159(a) including potential impacts on birds species of Federal and State concern.</p>	<p>The MFAC for Legg Lake has been revised to indicate that the skimming operation is at a frequency of once per week, which is the same frequency as currently conducted by the County. Consequently, there is no “substantial increase” in these activities that would cause a reasonably foreseeable environmental impact. Rather, these activities represent a baseline condition for environmental analysis of the Trash TMDL. The TMDL will not cause impacts relative to the current conditions at Legg Lake. Further, Regional Board staff research of the State Clearinghouse and site visits and discussions with County personnel lead staff to conclude that the County has not</p>

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				<p>submitted any environmental notices or analyses for its existing trash management program, which is equivalent to the MFAC of this TMDL. The County's lack of environmental analysis and documentation, as well as a baseline that includes manual trash collection, contradicts the County's allegations here that this TMDL will result in significant adverse impacts, and supports the Regional Board's conclusion that the manual trash collection does not pose reasonably foreseeable environmental impacts.</p> <p>An analysis of trash removal from Legg Lake and the shoreline is included in the non-structural BMPs section of the SED and the revised tentative BPA. Impacts to specific environmental categories by trash removal activities were analyzed in the CEQA checklist. Staff determined that there would be no significant impacts, including potential impacts to birds species of Federal and State concern.</p> <p>Please note that the SED as well as the TMDL staff report, Basin Plan amendment, tentative resolution and these responses to comments should be considered as a whole when evaluating</p>

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				the environmental impacts of implementing the TMDL.
5-2.15	County of Los Angeles, Department of Parks and Recreation	May 4	Item 2. Air b. – To the extent that additional sweeping/cleanup of the lake and shoreline is conducted by boats or motor vehicles with internal combustion engines the potential for offensive odors will exist. The SED notes this potential with respect to street sweeping; the impact in the park, a pristine recreational area, would be greater than in an urban setting of the street. These impacts were not discussed in the SED.	Offensive odors from vehicle and motor emissions and other sources already exist in the lake and along the shoreline. The parking lots are approximately 100 feet away from the shoreline. Highway 60 is adjacent to the park. Authorized motor vehicles are allowed to drive along the walk path in the park. Smoke from multiple picnic area activities along the shoreline also creates objectionable odors. Objectionable odors already exist in parts of the lake and along the shoreline due to excessive trash accumulation and algae growth that may be induced by food trash discarded in the water. Trash removal in the lake and along the shoreline may be considered a positive impact as existing objectionable odors from trash would be reduced. Furthermore, boats and motor vehicles are currently used for routine skimming of Legg Lake and the cleaning of the shoreline. If structural and nonstructural BMPs are implemented, the need to skim the lake after rain or park events would likely decrease.
5-2.16	County of Los Angeles, Department	May 4	Item 3. Water e. – To the extent that additional sweeping/cleanup of the lake and shoreline is conducted by boats with motors, there is a potential of the discharge of fuels, oils or other pollutants	Model boats and motor boats are already allowed to be operated on the lake, and thus are part of baseline

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	of Parks and Recreation		into the waters of the Lake or along the shoreline. This impact was not discussed in the SED.	<p>conditions. There can be up to 2-3 model boat events per month at the lake. Discharge of fuels, oils or other pollutants into the waters of the Lake or along the shoreline by boats with motors is not a reasonably foreseeable impact if proper maintenance and operations of the boats are followed. It is not foreseeable that additional motor boat trips will be used to implement the TMDL in any event, since the BPA baseline maintains the current frequency of skimming, and only requires a MFAC of pickup and collection on the shore, which will reduce, not increase, the amount of trash reaching the water.</p> <p>The County of Los Angeles Department of Parks and Recreation currently skims the lake once a week and cleans the shoreline two to three times a week. Adverse impacts associated with skimming and cleaning of the shoreline are pre-existing and additional skimming is unlike to result in reasonably foreseeable impacts.</p> <p>Even if the County decided to increase skimming activities above the MFAC, the increased boat trips associated with skimming would be insignificant</p>

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				<p>compared to the baseline condition, which includes all boat trips, including model boat events.</p>
5-2.17	County of Los Angeles, Department of Parks and Recreation	May 4	Item 4. Plant Life a. – The sweeping/cleanup activities conducted in the lake and especially along the shoreline have the potential to affect plant life existing in the area. This impact was not discussed in the SED.	<p>Only landscaped plants are planted around the lake. The impacts from park visitors to these landscaped plants are existing. There are non-landscaped plants on islands in the lake. However, these areas are not accessible to visitors and are not as impacted by trash; therefore, additional sweeping/cleanup activities are not expected on the islands. Trash mainly accumulates along the shoreline. It is not reasonably foreseeable that cleaning up the lake and shoreline will have adverse impacts to the plants on the land, but rather, its removal would be beneficial to the flora. It is reasonably foreseeable that manual trash removal will be sufficient to comply with the minimum frequency of assessment and collection given the size of the lake and the extent of the trash impairment. The County of Los Angeles Department of Parks and Recreation currently skims the lake once a week and cleans the shoreline two to three times a week. Adverse impacts associated with skimming and cleaning of the shoreline are pre-existing and additional skimming is unlikely to result in reasonably</p>

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				foreseeable impacts. Furthermore, if structural and nonstructural BMPs are implemented, the need to skim the lake after rain and park events would likely decrease.
5-2.18	County of Los Angeles, Department of Parks and Recreation	May 4	Item 5. Animal Life a. – The sweeping/cleanup activities conducted in the lake and along the shoreline could affect wildlife using the lake, islands, and shoreline for habitat, especially a large variety of birds. Legg Lake is a haven for migrating birds. (See Attachment). This impact was not discussed in the SED.	According to the County’s comment letter, there are 1.5 million visitors to the park a year. The resident wildlife is likely accustomed to visitors. The impacts of sweeping/cleanup activities are minimal compared to the impacts of the visitors because they are of limited duration. The sweeping/cleanup activities are not expected to cause an adverse change in diversity of species or numbers of any species of animals. Rather, removal of trash would be beneficial to wildlife that would avoid potential entrainment or ingestion. It is reasonably foreseeable that manual trash removal will be sufficient to comply with the minimum frequency of assessment and collection given the size of the lake and the extent of the trash impairment. Furthermore, if structural and nonstructural BMPs are implemented, the need to skim the lake after rain and park events would likely decrease.
5-2.19	County of Los Angeles, Department	May 4	Item 5. Animal Life b. – The sweeping/cleanup activities conducted in the lake and along the shoreline could affect rare or endangered animals using the lake, islands, and shoreline for	According to the County’s comment letter, there are 1.5 million visitors to the park a year. The wildlife is likely

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	of Parks and Recreation		habitat, especially a large variety of birds. Legg Lake is a haven for migrating birds. This impact was not discussed in the SED.	accustomed to visitors. The impacts of sweeping/cleanup activities are minimal compared to the impacts of the visitors because they are of limited duration. The County already implements sweeping and cleanup activities at Legg Lake. The County has not submitted any evidence that these activities affect migratory birds and endangered species or other rare and endangered animals. Further, the County has not conducted any environmental analyses for public review that analyze these activities. It is thus not foreseeable that Park personnel would cause environmental impacts through its existing trash management program, which is equivalent to the MFAC of this TMDL. Rather, removal of trash would be beneficial to wildlife that would avoid potential entrainment or ingestion. It is not foreseeable that personnel conducting these activities would disturb or otherwise affect these animals because manual trash removal is a minimally obtrusive activity. The County can train their personnel to carefully remove trash without trampling natural areas or disturbing wildlife. The islands are isolated and not accessible to visitors, therefore compliance with the TMDL is not

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				<p>expected to have additional sweeping/cleanup activities in the island that may affect wildlife living there.</p>
5-2.20	County of Los Angeles, Department of Parks and Recreation	May 4	Item 5. Animal Life c. – The sweeping/cleanup activities conducted in the lake and along the shoreline could affect migration or movement of animals using the lake, islands, and shoreline for habitat, especially a large variety of birds. Legg Lake is a haven for migrating birds. This impact was not discussed in the SED.	See response to comment 5-2.19.
5-2.21	County of Los Angeles, Department of Parks and Recreation	May 4	Item 5. Animal Life d. – The sweeping/cleanup activities conducted in the lake and along the shoreline could affect fish and wildlife using the lake and shoreline for habitat, including birds. Legg Lake is a haven for migrating birds. This impact was not discussed in the SED.	<p>See response to comment 5-2.19. The sweeping/cleanup activities are not conducted under water. Fish are not expected to be affected. Furthermore, the removal of trash will improve aquatic life habitat and would avoid potential entrainment or ingestion Of trash by aquatic life.</p> <p>The suggestion that maintaining the current level of trash on the shoreline and in the lake is more beneficial to wildlife than cleaning it up is inexplicable and not supported by substantial evidence.</p>
5-2.22	County of Los Angeles, Department of Parks and Recreation	May 4	Item 6. Noise a. – The sweeping/cleanup activities conducted in the lake and along the shoreline will result in increased noise during the conduct of those activities. This could affect the recreational usage of the lake, as well as nesting wildlife. This impact was not discussed in the SED.	Noise is an existing condition at the Legg Lake area. The park is adjacent to the highway. Noise from the highway can be heard at significant levels in the park. The model boat activities also create relatively high noise levels. The park presently allows motor boats to be operated in the lake. The TMDL

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				sweeping/cleanup activities are not expected to create noise that exceed the current baseline because the frequency of skimming activities would not be increased in the TMDL. In addition, it is reasonably foreseeable that manual trash removal will be sufficient to comply with the minimum frequency of assessment and collection given the size of the lake and the extent of the trash impairment. Furthermore, if structural and nonstructural BMPs are implemented, the need to skim the lake after rain and park events would likely decrease.
5-2.23	County of Los Angeles, Department of Parks and Recreation	May 4	Item 7. Light and Glare – To the extent that surveillance cameras are installed as a non-structural BMP, their successful operation may require additional lighting. This impact was not discussed in the SED.	Surveillance cameras were only discussed in the SED as one potential nonstructural BMP that could be used to comply with the TMDL. They are not a required component of the MFAC program. Nonetheless, if surveillance cameras were used, impacts would be insignificant. Visitors come to the park mainly during daytime. No lighting is needed for the surveillance cameras during daytime. It is not anticipated that surveillance cameras will be used during nighttime. Furthermore, there are many lights existing in the park and light and glare are existing conditions during night time.
5-2.24	County of	May 4	Item 13. Transportation/Circulation b. – To the extent that	The TMDL does not mandate cleaning

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	Los Angeles, Department of Parks and Recreation		sweeping of parking lots within the park is adopted as a non-structural BMP, this sweeping could affect the availability of parking. This impact was not discussed in the SED.	of the parking lots. The County may implement parking lot cleaning as part of their BMPs. However, the County implements parking lot cleaning presently and is part of the baseline for environmental conditions at Legg Lake and the TMDL will not cause any environmental impacts beyond those of the current baseline. The County has not submitted any environmental documentation to show that parking lot sweeping causes reasonably foreseeable environmental impacts. Based on Regional Board staff visits, there are adequate parking spaces in the parking lots during daytime. Furthermore, sweeping of parking lots can be conducted before and after park hours to avoid affecting the availability of parking. To the extent it is arguably foreseeable that parking lot sweeping will be used to prevent trash on the shoreline, alternative methods of compliance via manual trash removal, such as nail and stick, can be used in parking lot in lieu of street sweeping. This would eliminate any impacts on parking.
5-2.25	County of Los Angeles, Department of Parks and	May 4	Item 14. Public Service b. – The SED identifies the enforcement of litter laws as a non-structural BMP. The SED also notes that “[c]onstant patrol is required to promote proper trash disposal concepts to park users and residents.” The use of sheriff’s	It is not reasonably foreseeable that responsible jurisdictions would deploy law enforcement personnel to educate park users, conduct patrols and perform

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	Recreation		deputies or other law enforcement personnel to conduct this enforcement and patrol could adversely affect the deployment of those personnel for other law enforcement activities. This impact was not discussed in the SED.	the minimum frequency of assessment and collection. If law enforcement personnel were employed to enforce litter laws at the lake or conduct patrol, the impacts would not be considered significant considering the relatively small size of the park. Moreover, diversion of public resources from one agency or purpose to another is not an “environmental” impact subject to CEQA analysis.
5-2.26	County of Los Angeles, Department of Parks and Recreation	May 4	Item 14. Public Service d. – The sweeping/cleanup of the lake and shoreline will, while those activities are underway, restrict the ability of visitors to the park to enjoy the lake resources. This impact was not discussed in the SED.	The current trash impairment at the lake impairs recreational beneficial uses. Park visitors would likely enjoy the park and lake resources more without trash. The sweeping/ cleanup of the lake and shoreline will remove trash from the area and is a positive impact for visitors of the park. The suggestion that visitors would consider recreating among trash and rubbish preferable to trash removal activities is inexplicable and not supported by substantial evidence.
5-2.27	County of Los Angeles, Department of Parks and Recreation	May 4	Item 15. Energy a./b. – The SED does not discuss the energy that will be used in the effort to sweep/clean the lake or adjacent shoreline.	The impacts to energy from non-structural and structural compliance alternative were analyzed in the SED. For example, the SED states, “Responsible agencies may avoid some use of fuel or energy by enforcement of litter laws and institutional controls which could lessen the increase in truck

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				trips and the demand for fuel.” In terms of skimming, the BPA has been clarified such that skimming the lake is within the current baseline in which Legg Lake is swept. Consequently, it is not reasonably foreseeable that increased energy usage would occur.
5-2.28	County of Los Angeles, Department of Parks and Recreation	May 4	Item 17. Human Health a./b. – The skimming of the lake, which, according to the Staff Report, is 10 feet deep at the center, could represent human health hazards to the extent that personnel fall into the lake during skimming operations. There also could be health hazards arising from the contact with trash by personnel. These potential impacts were not discussed in the SED.	The TMDL has been clarified that trash assessment and collection need not expose personnel to hazards. It is not reasonable foreseeable that personnel will fall into the lake during skimming operations when proper safety procedures are followed. Health hazards from contact with trash can be avoided through proper handling procedures and protective gear and clothing. Further, lake skimming activities currently exist, and to the extent any risk of falling into the lake arguably occurs from such activities, the risk is part of baseline conditions. Notably, such a risk is not an environmental risk, which is the subject of CEQA. Swimming in trash by visitors, is however, an environmental risk. The County’s professed concern about risks from their personnel falling in the Lake during skimming operations is contradicted by their lack of similar concern for the visitors they draw to recreate at the

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				Lake through their operations, who are forced to endure swimming with the garbage.
5-2.29	County of Los Angeles, Department of Parks and Recreation	May 4	Item 18. Aesthetics a./b. – Legg Lake and the surrounding area is a scenic area. The skimming of the lake and the shoreline by personnel in watercraft will result in the temporary obstruction of the view of that area on a continual basis. Also, the removal and collection of trash in the scenic area potentially would be offensive to members of the public using the Lake and the surrounding park. These impacts were not discussed in the SED.	The alleged environmental impact cited by the commenter already occurs at Legg Lake and is part of the baseline environmental conditions. The skimming of the lake and the shoreline and the removal and collection of trash will remove trash from the park area; therefore, there will be positive impacts to aesthetics. In addition, if structural and nonstructural BMPs are implemented, the need to skim the lake after rain and park events would likely decrease.
5-2.30	County of Los Angeles, Department of Parks and Recreation	May 4	Item 19. Recreation a. – The park is a significant recreation area for 1.5 million visitors per year, who picnic and enjoy the recreational benefits of the park and Legg Lake. To the extent that personnel are skimming the lake for trash and removing trash from the shoreline, there will be interference with that recreational use. In addition, possibly moving picnic areas further from the shoreline could affect the recreational utility of the park during the period of time that the picnic areas are not available for public use. If the picnic areas are relocated, it is entirely foreseeable that picnickers will continue to use the area close to the lakes despite the lack of tables, thus perpetuating the presence on trash in the same area. These impacts were not discussed in the SED.	Skimming the lake and removing trash from the shoreline result in a cleaner park and are considered a positive impact to recreational use. Odors exist at present picnic areas due to excessive trash and algae growth that is possibly stimulated by food trash in the lake. If relocating picnic areas were chosen as a compliance option, it is not reasonably foreseeable that picnickers would continue to use the area close to the lake despite a lack of tables. Furthermore, rules can be set and enforced to restrict picnic activities to the picnic area.
5-2.31	County of Los Angeles,	May 4	Item 21. Mandatory Findings of Significance a. – The SED’s discussion does not include any analysis of the impacts of	The commenter does not explain what is meant by mechanical trash removal;

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	Department of Parks and Recreation		mechanical trash removal from the lake and surrounding shoreline or the mitigation of these impacts, in the discussion of the Mandatory Findings of Significance on the impacts on fish and wildlife species, etc., as discussed with respect to impacts on animal life and other issues in the CEQA Checklist, above.	therefore, staff can not analyze it's feasibility as a compliance option or determine any potential impacts. Staff has based their environmental analysis on the existing trash impairment at the lake and current trash removal practices. Based on these observations, it is reasonably foreseeable that compliance could be achieved through manual trash removal on the lake and shoreline, which would cause no negative impacts. The only reasonably foreseeable "mechanical trash removal", which presumably means the use of devices such as street sweepers, would occur in the parking lot areas, away from the lake or shoreline where impacts could occur.
5-2.32	County of Los Angeles, Department of Parks and Recreation	May 4	Item 21. Mandatory Findings of Significance c. – The SED concludes that in some cases, mitigation measures for potentially significant environmental impacts "may not reduce the impacts to less than significant levels." However, the CEQA Checklist indicates that in every case, the environmental impacts of the proposed BPA can be reduced to less than significant levels with mitigation. The statement and the Checklist are thus contradictory. In addition, as noted above, the discussion of environmental impacts in the SED did not include consideration of impacts associated with the removal of trash from the lake and the shoreline.	There is no contradiction in the SED in the Mandatory Findings of Significance. The SED is not an EIR and analyzes the environmental impact from adopting a new regulation to reduce trash in Legg Lake, a water of the state. The Regional Board will not be implementing the physical activities that may cause environmental impacts. Therefore, while the SED identifies mitigation measures that will reduce the

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				<p>impacts to less than significant levels, it is the County, not the State, that will implement these activities. Because the State cannot compel the county to adopt effective mitigation measures during its implementation of trash reductions measures, the SED concludes that in some cases, mitigation measures for potentially significant environmental impacts “may not reduce the impacts to less than significant levels.”</p> <p>The purpose of the mandatory findings of significance is to require an agency to adopt an EIR when certain “necessarily significant” impacts occur. When an initial study concludes that any of these impacts may occur, the lead agency must prepare an EIR, rather than a negative declaration. However, this lead agency is not obligated to prepare an EIR, and the checklist is not an initial study, but rather, a component of the Regional Board’s substitute environmental documents, as required by CEQA and Water Board regulations.</p> <p>The SED does include a consideration of impacts associated with the manual removal of trash from the lake and the shoreline and determines that those impacts are less than significant. See</p>

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				responses to comments above.
5-2.33	County of Los Angeles, Department of Parks and Recreation	May 4	4. Section 7.1.2, Project Cumulative Impacts – The SED’s discussion of these impacts does not consider the cumulative environmental impacts associated with the removal of trash on the lake and the shoreline and thus is incomplete. In particular, aesthetic, public service and recreational impacts will be cumulative from such operations.	The commenter does not explain how aesthetic, public service and recreational impacts would be cumulative. The TMDL implementation is part of the baseline as the County currently conducts trash management activities. The SED determines that there would be no negative impacts to any of these areas and that there would be positive impacts to aesthetics and recreation from the removal of trash. Therefore, there are no cumulative impacts associated with nonstructural compliance alternatives such as the removal of trash on the lake and shoreline in these or any other checklist categories. The only cumulative impacts that are foreseeable are associated with the potential installation and maintenance of structural BMPS, which are discussed in the SED.
5-3.1	Heal the Bay	May 4	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.	Comment noted.

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5-3.2	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 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.</p>	<p>Staff disagrees. Manual collection of trash in the receiving water bodies is essential to attaining the goal of zero trash. The minimum frequency program will achieve the zero waste load allocation as discussed below</p>
5-3.3	Heal the Bay	May 4	<p>Staff correctly assigns a TMDL of zero trash. 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. 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</p>	<p>Comment noted.</p>

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			legislation. Thus, the Regional Board staff's proposal of zero trash discharge is, clearly, appropriate.	
5-3.4	Heal the Bay	May 4	<p>While we support the idea of clean-up programs to handle trash, 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 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>The watersheds of this TMDL are 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, and would not attain a zero trash target.</p> <p>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>
5-3.5	Heal the Bay	May 4	<p>The Implementation Schedule should require a 100% reduction of trash from the baseline for point and nonpoint sources.</p> <p>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</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</p>

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			<p>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 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.</p>	<p>trash to accumulate in deleterious amounts.</p>
5-3.6	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>	<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.</p>
5-3.7	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</p>	<p>Staff agrees and notes that the Marina del Rey example cited in the comment may not be applicable to Legg Lake. Nevertheless, the Staff Report will be</p>

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			<p>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. 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>	<p>revised such that when lake cleaning and dredging operations are implemented, that recovered trash is disposed of properly.</p>
5-3.8	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</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>

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			conditions defined as major rain events and wind advisories. Again in this case, the Regional Board should define a major rain event.	
5-3.9	Heal the Bay	May 4	The Regional Board should encourage steady progress to final 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.	Staff agrees. The BPA has been revised 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.
5-3.10	Heal the Bay	May 4	The Baseline Load Allocation in the Draft Ventura River Trash TMDL appears to be incorrect. The Draft Ventura River Estuary Trash TMDL provides a default Baseline LA of 6,389 gallons of uncompressed trash per square mile per year. This appears to be a typographical error based on the figures provided in the Staff Report and other Draft Trash TMDLs. The Regional Board should modify this number accordingly.	The Staff Report will be revised to correct cited errors.
5-3.11	Heal the Bay	May 4	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.	The Staff Report will be revised to include data for the Calabasas CDS study.
5-4.1	USEPA	May 4	My initial review suggests the six draft TMDL staff reports have reasonably defined impairment assessments, calculated waste	Comment noted.

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			load and load allocations, considered critical conditions and provided a margin of safety.	
5-4.2	USEPA	May 4	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).	Comment Noted.
5-4.3	USEPA	May 4	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, 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.	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.
5-4.4	USEPA	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.
5-5.1	Caltrans	May 2 (Rec'd May 7 via email)	The Department is concerned with the implementation of full capture devices as recommended by the Regional Board staff. Legg Lake is within the San Gabriel River Watershed and our major concern is that these devices may not be compatible with the structural controls that may be required for subsequent TMDLs developed for this watershed.	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

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				structural BMPs in this TMDL. Furthermore, trash removal BMPs can be used with other structural BMPs to remove additional pollutants..
5-5.2	Caltrans	May 2 (Rec'd May 7 via email)	We encourage Regional Board staff to coordinate the compliance schedule for this TMDL to be compatible with TMDLs for other contaminants within the larger San Gabriel River Watershed. 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 all TMDLs within the region.	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.