



May 12, 2014

Chairwoman Marcus and Board Members  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov); [Jeanine.Townsend@waterboards.ca.gov](mailto:Jeanine.Townsend@waterboards.ca.gov)

**Re: Comments on the Proposed State Water Board Approval of the Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Loads for Metals in Ballona Creek and the Total Maximum Daily Loads for Toxic Pollutants in the Ballona Creek Estuary**

Dear Chairwoman Marcus and Board Members:

On behalf of Heal the Bay and Los Angeles Waterkeeper, we submit the following comments on the proposed State Water Board approval of amendments to the Water Quality Control Plan for the Los Angeles Region (“Basin Plan”) to revise the Total Maximum Daily Loads for Metals in Ballona Creek (“Ballona Creek Metals TMDL”) and the Total Maximum Daily Loads for Toxic Pollutants in the Ballona Creek Estuary (“Ballona Creek Estuary Toxics TMDL”). The scope of our comments is limited to the final versions of the Ballona Creek Metals TMDL and Ballona Creek Estuary Toxics TMDL Basin Plan amendments adopted by the Los Angeles Water Quality Control Board on December 15, 2013.

As expressed in our November 14, 2013 comment letter to the Regional Board, we object to the new alternative compliance mechanism proposed in the draft Ballona Creek Metals and Ballona Creek Estuary Toxics TMDLs which allows dischargers regulated by storm water NPDES Permits to demonstrate compliance with the waste load allocations of the TMDLs by providing a quantitative demonstration that control measures and BMPs will achieve water-quality based effluent limits and implementing those control measures and BMPs, subject to Regional Board Executive Officer approval. This proposed alternative compliance is improper and unjustified and must be removed.

Heal the Bay and Waterkeeper are supportive of BMPs and storm water and non-storm water control measures as an important method for ensuring dischargers comply with waste load allocations, effluent limits, and water quality standards. BMPs and other measures, however, cannot be used as a measure for compliance with water quality standards, effluent limits, and TMDLs. Providing quantitative demonstrations of BMP effectiveness and/or installation of Regional Board-approved BMPs do not ensure that TMDL wasteload allocations and water quality based effluent limits are actually met to achieve compliance with water quality standards in the impaired waterbodies.

Further, the implementation of these BMPs and control measures in itself is insufficient to show water quality-based effluent limits and waste load allocations are met. The “reasonable assurance analysis” conducted under the LA MS4 Permit and endorsed by the Regional Board as evident in the Response to Comments on the Draft Ballona Creek Metals TMDL and Ballona Creek Estuary Toxic Pollutants TMDL Reconsiderations does not meet the requirements of the EPA 2002 and 2010 guidance on incorporation of TMDL waste load allocations into storm water NPDES permits. See NRDC, Los Angeles Waterkeeper and Heal the Bay Petition to the State Board for Review of the 2012 Los Angeles County MS4 Permit at



28-31. For these reasons, the alternative compliance mechanism incorporated into the Ballona Creek Metals and Ballona Creek Estuary Toxics TMDLs should be removed prior to State Board approval.

Additionally, we believe a numeric target for toxicity and an associated waste load allocation should be included in the Ballona Creek Metals TMDL. To meet narrative objectives set forth in the Basin Plan for toxicity, the Ballona Creek Metals TMDL should include a numeric target for toxicity, similar to that seen in the Calleguas Creek Watershed Toxicity TMDL.

Thank you for this opportunity to provide comments. If you have any questions or would like to discuss any of these comments, please feel free to contact Heal the Bay at (310) 451-1500 or Los Angeles Waterkeeper at (310)394-6162.

Sincerely,

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