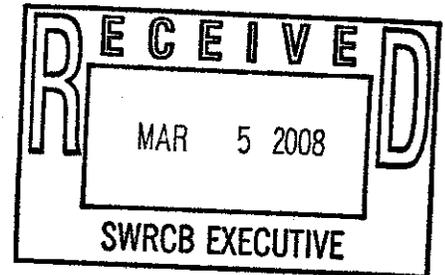


Direct Dial No.: 951.801.6627
amorgan@bwslaw.com

March 5, 2008

Via Email @ CommentLetters@Waterboards.CA.Gov
Fax (916) 341-5620 and U.S. Mail

Tam M. Doduc, Board Chair and
Members of the State Water Resources Control Board
STATE WATER RESOURCES CONTROL BOARD
P.O. Box 100
Sacramento, California 92812-0100



Re: Comment Letter--Los Angeles River Trash TMDL

Dear Chair Doduc and Members of the State Water Resources Control Board:

We are writing on behalf of the City of Alhambra ("City") to comment on the proposed amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to Incorporate a Total Maximum Daily Load ("TMDL") for Trash in the Los Angeles River Watershed. The City supports the goal of eliminating trash in the Los Angeles River. The proposed amendment, however, is flawed and should not be adopted in its current form. Moreover, the staff report prepared in connection with the proposed amendment fails to discuss several key points.

First and foremost, neither the staff report nor the proposed amendment address the unrealistic compliance schedule. The TMDL would require a 40% reduction in the first year and annual reductions of an additional 10% in subsequent years until the numeric target of zero is met. In other words, the TMDL would require 40% reduction by September 30, 2008. This is simply too ambitious. The City has already budgeted for Fiscal Year 2007-2008 capital projects, and implementing the TMDL was not a project budgeted for. This is a significant problem because implementing the TMDL will require the City to engage in extensive planning and prioritization. The City will have to obtain catch basin measurements, size required engineered devices, develop bid documents, engage in a public bidding process, and then go through the manufacturing and installation process. To assume that all this can be done, and a 40% reduction achieved, by September 30, 2008 is wholly unrealistic.

Further compounding the problem is the fact that only two manufacturers offer a widely known full capture certified catch basin insert device, a vertical connector pipe

Tam M. Doduc, Board Chair and
Members of the State Water Resources Control Board
STATE WATER RESOURCES CONTROL BOARD
March 5, 2008
Page 2

screen. With over 40 cities, Caltrans and the County of Los Angeles all simultaneously trying to meet the 40% requirement, the bid process and manufacturing and installation schedules are certain to be impacted, making compliance with the 40% reduction by September 30, 2008 even more impractical. The increase in demand for certified devices will likely lead to price increases and construction permit review could also be significantly delayed.

This overly aggressive schedule is also inconsistent with the MS4 permits, which the Regional Board plans to use to implement the TMDL. The MS4 permits utilize an iterative process. A drastic 40% reduction to be achieved by September 2008 is not possible to realize through an iterative process. This in turn highlights another problem with the TMDL—utilizing the MS4 permits for implementation places the City at risk of a citizen's suit for any failure to comply. Given the unrealistic time schedule for compliance, this is a wholly improper burden to place on the City.

The bottom line is that the compliance schedule is overly aggressive to the point of being infeasible.

Second, it appears that in imposing this unrealistic compliance schedule, the Regional Board is attempting to shift its failure to comply with CEQA onto the backs of the cities in the watershed. In effect, by requiring a 40% reduction in the first year, the Regional Board is placing the burden of the prior TMDL's invalidation onto municipalities, rather than face its failure to comply with CEQA, which led to the invalidation.

Third, the TMDL also unfairly increases the burden on municipalities by failing to impose implementation measures on non-point sources, such as the National Forest Service, as well as those federal and State facilities, universities, hospitals, and school districts that have yet to be issued Phase II NPDES permits.

Fourth, the TMDL is an unfunded mandate contrary to the California Constitution.

And finally, the staff report fails to adequately analyze compliance costs to the affected cities. Instead, the report includes a vague discussion concerning costs that does not even attempt to provide a realistic and comprehensive estimate of the TMDL's financial impact on municipalities.

Tam M. Doduc, Board Chair and
Members of the State Water Resources Control Board
STATE WATER RESOURCES CONTROL BOARD
March 5, 2008
Page 3

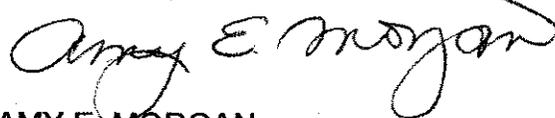
In light of these many defects, the City proposes the following alternatives:

1. Revised Compliance Schedule: The City proposes a more realistic time schedule for compliance, such as requiring a 20% reduction by September 30, 2008, with an additional 10% reduction for each following year.
2. Alternative Catch Basin Prioritization Plan: The City supports in principle the Catch Basin Prioritization Plan as an alternative compliance strategy that should be identified in the TMDL. This plan was presented by cities in the watershed at the Regional Board's August 2007 public hearing. The affected cities later discussed the proposed alternative plan with Regional Board staff, as the Regional Board directed at that public hearing. The alternative plan incorporates the findings of a U.S. E.P.A.-funded study, which concluded that significant reduction in trash discharges could be achieved by targeting catch basins that have historically generated the majority of trash. The plan relies upon community litter surveys using the established Keep America Beautiful Index methodology (rather than trash separation and physically re-counting trash) to categorize areas as extremely littered, littered, slightly littered or without litter. The plan provides for a specific time schedule for the installation of catch basin inserts at identified priority areas.

The City appreciates the opportunity to comment on the proposed TMDL and urges the State Board to consider these comments when deciding whether or not to approve the TMDL.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP



AMY E. MORGAN
Partner

AEM:meh

cc Joseph M. Montes, Esq., City of Attorney, City of Alhambra
Christine Montan, Director of Utilities, City of Alhambra
James Cowan, Water Quality & Environmental Compliance Supervisor,
City of Alhambra