



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
 Secretary for
 Environmental Protection

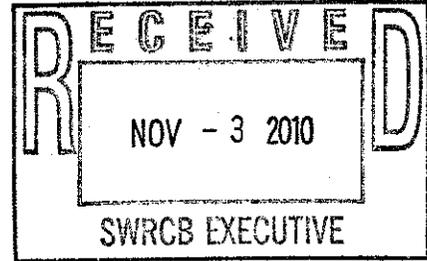
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Arnold Schwarzenegger
 Governor

CEQA Scoping Mtgs (10/7 & 14/10)
 Policy for Controlling Trash
 Deadline: 11/3/10 by 12 noon

MEMORANDUM

TO: Jeanine Townsend
 Clerk to the Board
 State Water Resources Control Board
 1001 I Street, 24th Floor
 Sacramento, CA 95814



FROM: *Lauri Kempfer*
 Harold J. Singer
 Executive Officer
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: November 3, 2010

SUBJECT: COMMENT LETTER - POLICY FOR CONTROLLING TRASH IN WATERS OF THE STATE

Thank you for the opportunity to comment on the State Water Board's conceptual Trash Policy as outlined in the informational document for the California Environmental Quality Act (CEQA) scoping process. The policy may include a formal definition of trash, a statewide water quality objective, and direction on control of point and nonpoint sources of trash. Lahontan Water Board staff's comments are as follows.

Policy Options

The informational document includes a variety of options under each element of the policy (i.e., policy statement, water quality objective, and implementation plan). It is not clear whether multiple options in a single element will be considered for inclusion in the final policy. Some proposed alternatives only address a subset of the likely definition of trash. The State Water Board should strongly consider multiple alternatives as the preferred project.

Definition of Trash

The informational document indicates (on page 5) that the new definition of trash will likely combine elements of the Water Code definition of "waste" and the Government Code definition of "litter." The new definition or the associated policy language should

explicitly state what is or is not trash subject to the proposed implementation measures. I recommend that the definition clearly focus on the defined problem and on the components of trash that the State Water Board wishes to control.

On page 2, the informational document states that trash is considered to be of anthropogenic origin and that it includes the terms "floating debris", "floatable waste" and "settleable waste." The anthropogenic nature of trash should be included in the proposed new definition and/or the new water quality objective. There are many natural floatable, settleable, and suspended materials, and some of these might be considered "debris." Examples include pollen, leaves and other materials from riparian sources, planktonic algae, drifting macroinvertebrates, and naturally transported sediment and beach sand. To avoid unnecessary regulation and Section 303(d) listings, it is important that natural sources of floatable, settleable and suspended materials be specifically excluded from the definition of trash.

The informational document states that "wood" and "green waste" could be included in the definition of "trash" However the Government Code definition of "litter" excludes "the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling or manufacturing." If these exclusions are continued to the new definition of "trash", the policy should explain what is meant by "properly discarded" in each case, and what sorts of wood and green wastes are considered trash. This issue is of concern to Lahontan Water Board staff because we are working with the U.S. Forest Service and CALFIRE on large scale (thousands of acres) fuel reduction projects at Lake Tahoe. Some of this material is left on the landscape (including floodplains and riparian areas) as soil cover. We suggest that "properly discarded" be equated, in part, with "disposed pursuant to an approved project."

Water Quality Objective

The informational document recognizes that the existing Basin Plans include a variety of narrative water quality objectives that have been or could be used to address trash. "Standardizing" the existing objectives is being considered as one possible policy alternative. This alternative could have unintended consequences because these objectives have broader implications than trash control alone. They were originally adopted in the 1970s to address floatable, settleable and suspended materials from sewage discharges. These objectives are still useful in the context of permitting and enforcement to address sewage spills and other discharges (e.g., spills from highway accidents). Some of the existing objectives have also been used in developing Total Maximum Daily Loads (TMDLs) for sediment. I support leaving the existing narrative water quality objectives in place and adding a new trash objective or waste discharge prohibition.

Another alternative being considered is a numeric "zero trash" objective. There seems to be a disconnect between this objective and most implementation options (such as provisions for MEP and BAT) which clearly indicate that not all "trash" can be prevented from entering surface waters. This disconnect must be addressed as part of the



development of the policy, regardless of which alternative elements are selected. The policy should explain the monitoring protocol(s) and evaluation guidelines that would be used to determine compliance with this objective (based on implementation alternatives being evaluated). Given the ubiquity of trash, an unattainable "zero trash" objective could require the listing of most surface waters in the state. Policy direction is needed on the amounts and kinds of trash that actually constitute impairment of beneficial uses.

Permitting and Enforcement

Waters of the United States. The policy would rely on MS4 permits to control point source trash discharges. The policy must also address control of discharges of trash to surface waters from urban areas that have been determined not to be "waters of the United States" (non-jurisdictional waters). Two of the largest cities in the Lahontan Region, Lancaster and Palmdale, discharge stormwater into streams that the U.S. Army Corps of Engineers has determined to be non-jurisdictional.

Control of Nonpoint Sources. The informational document states that control of nonpoint sources of trash (e.g., in urban parks that are not served by stormwater infrastructure) would be accomplished by "initial and annual assessments of trash generation, a determination of collection frequency necessary to meet the water quality objective, and a suite of structural and/or nonstructural Management Practices that prevent trash from entering or accumulating in waters of the state." This approach does not recognize the potential problems involved in extrapolating from urban parks to much larger public land jurisdictions.

The Lahontan region covers about 20 percent of California. Most of this area is publicly owned, including lands managed by the U.S. Forest Service, the U.S. Bureau of Land Management, the National Park Service, military bases, the Department of Parks and Recreation, the Department of Fish and Game, and the Los Angeles Department of Water and Power. While these agencies presumably provide for trash cleanup at heavily used sites such as campgrounds and day use areas, policy implementation involving more intensive inspections, monitoring and cleanup over large remote areas used for dispersed recreation, resource extraction, or military exercises may not be feasible. Feasibility includes resource limitations and potential access problems in roadless areas and areas with winter snow cover. Other Regions with large publicly-owned rural areas may have similar problems. It might be most appropriate to address "nonpoint source" trash on federal and state-owned lands through State Water Board Management Agency Agreements or Memoranda of Understanding (MAAs or MOUs) with the affected land management agencies, and/or through statewide waivers or waste discharge requirements, rather than by putting the burden on Regional Water Boards to require assessment and monitoring on a watershed-by-watershed basis. The policy could also, at least initially, focus on areas of heavy public use and road rights-of-way within public lands.

Impact Analysis

The SED should recognize that the environmental impacts of the policy will be indirect and that site-specific impacts cannot be predicted at this time. It should also emphasize the need for individual CEQA or NEPA documents to analyze project-specific impacts of the construction and maintenance of full capture, partial capture, or other structural implementation measures.

Please contact me at (530) 542-5412 or Judith Unsicker of my staff if you wish to discuss these comments. Ms. Unsicker can be reached at (530) 542-5462 or junsicker@waterboards.ca.gov.

JEU/clhT: TrashPolicyScoping_v2.doc
File: Basin Plan (General).