



July 28, 2009

Ivar Ridgeway
Storm Water Permitting Unit
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

RE: Public Workshop on Los Angeles Municipal Storm Water Permit (NPDES No. CAS004001) Reopener to Incorporate Provisions of the Los Angeles River Watershed Trash Total Maximum Daily Load

Dear Mr. Ridgeway,

On behalf of the Santa Monica Baykeeper and its 6,000 members and supporters in the Los Angeles area, please accept the following comments on the above-referenced matter. The Santa Monica Baykeeper ("Baykeeper") supports the Regional Board's decision to begin the process of amending the Los Angeles Municipal Storm Water Permit (NPDES No. CAS004001) ("Municipal Storm Water Permit") to incorporate the wasteload allocations ("WLA") of the Los Angeles River Watershed Trash Total Maximum Daily Load ("LA River Trash TMDL"). Because the TMDL became effective on September 23, 2008 and its first compliance deadline has already passed, we strongly urge the Regional Board to incorporate the TMDL's WLAs and implementation schedule as swiftly as possible. Only then can the Los Angeles River watershed be adequately protected from the continued disastrous impacts of trash.

I. The Municipal Storm Water Permit Reopener to Incorporate the LA River Trash TMDL Is Required by the Clean Water Act and the California Water Code

Under the Clean Water Act's implementing regulations, NPDES permit such as the Municipal Storm Water Permit must be consistent with the assumptions and requirements of any available waste load allocations. 40 C.F. R. § 122.44 (d)(4)(vii)(B). Section 13263 of the California Water Code requires that permits issued by California's water boards must "implement any relevant water quality control plans" such as the Los Angeles Basin Plan. Water Code, § 13263 (a). Indeed, the Municipal Storm Water Permit complies with these federal and state law mandates by providing for modifications of its requirements to "[i]ncorporate ... amendments to the [Los Angeles] Basin Plan." Municipal Storm Water Permit (as amended), at 73.

The LA River Trash TMDL became effective as a Basin Plan amendment in September 2008. In addition, the WLAs of the LA River Trash TMDL apply to stormwater dischargers and the LA River Trash TMDL Basin Plan amendment specifically stated that it "will be implemented through stormwater permits." Los Angeles Basin Plan, Chapter 7, Table 7-2.1. Therefore, the Regional Board must incorporate the LA River Trash TMDL into the Municipal Storm Water Permit because it is both a Los Angeles Basin Plan amendment and contains WLAs that must be part of the permit as mandated by the Clean Water Act.¹

¹ The Regional Board has already successfully reopened the Municipal Storm Water Permit to incorporate the Santa Monica Bay Beaches Bacteria TMDL for dry weather and the Marina del Rey Harbor and Mother's Beach Bacteria TMDL for summer dry weather.

II. Municipal Storm Water Dischargers Have Had Adequate Time to Take Measures to Come into Compliance with the TMDL and a Permit Reopener Is Thus Timely

The LA River Trash TMDL was originally adopted by the Los Angeles Regional Water Quality Control Board ("Regional Board") on September 19, 2001. The TMDL was subsequently approved by the State Water Resources Control Board and the U.S. EPA and became effective on September 23, 2002. The WLAs and all other elements of the LA River Trash TMDL were later upheld by the California Court of Appeal on January 26, 2006.² As a result, all dischargers covered by the Municipal Storm Water have been aware both of the WLAs and the implementation measures and deadlines envisioned by the LA River Trash TMDL since at least January 2006. Moreover, none of the permittees has challenged the re-adoption of the LA River Trash TMDL on August 9, 2007.

In these circumstances, all permittees under the Municipal Storm Water Permit have had ample time to develop measures to achieve compliance with the LA River Trash TMDL. This combined with the TMDL's measured approach for reaching the "zero trash" numeric target over a period of eight years and the provision allowing permittees to show compliance by using a full capture system more that adequately accommodates any concerns related to the need for more time to meet the TMDL's requirements. Therefore, the Regional Board should incorporate the clear requirements of the LA River Trash TMDL into the Municipal Storm Water Permit expeditiously.

III. The Regional Board Should Clarify in the Permit Reopener that the LA River Trash TMDL Includes to Compton Creek

In the recent review of the 303(d) list of impaired waters in the Los Angeles Region, the Regional Board stated that it will not be developing a trash TMDL for Compton Creek as the Compton Creek Trash TMDL is included in the LA River Trash TMDL. Based on these assurances, we request the Regional Board confirm that Compton Creek is one of the waterbodies to which the LA River Trash TMDL would apply through the Municipal Storm Water Permit.

IV. Conclusion

For the reasons stated above, we support the Regional Board's decision to reopen the Municipal Storm Water Permit and incorporate the LA River Trash TMDL. The LA River Trash TMDL's requirements are clear and will be easily translated into Municipal Storm Water Permit requirements in a manner similar to the incorporation of the Santa Monica Bay Beaches Bacteria TMDL for summer dry weather and the Marina del Rey Harbor Mother's Beach and Back Basins TMDL. As evident from the most recent iteration of the Los Angeles Region 303(d) list of impaired waters, the Los Angeles River watershed remains impaired for trash discharged from stormdrains. Every wet season, tons of trash are carried by the Los Angeles River and its tributaries to our beaches and coastal waters, harming marine life and beach-goers. The swift incorporation of the LA River Watershed Trash TMDL into the Municipal Storm Water Permit will provide the impaired watershed with a necessary and long-overdue protection.

Thank you for the opportunity to submit these comments. If you have any questions, please contact Tatiana Gaur at (310) 305-9645.

Sincerely,

/s/

Tatiana Gaur

Staff Attorney

Santa Monica Baykeeper

² The TMDL was set aside so that the Regional Board can adequately complete an environmental review. On August 9, 2007 the Regional Board re-adopted the LA River Trash TMDL and approved the supporting environmental review documentation.