



March 4, 2019

Chair Joaquin Esquivel
c/o Jeanine Townsend, Clerk to the Board
California State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Sent by e-mail to: commentletters@waterboards.ca.gov

RE: Proposed amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the Total Maximum Daily Loads (TMDLs) for trash in Revolon Slough / Beardsley Wash and the Malibu Creek Watershed.

To Chair Joaquin Esquivel and Member of the State Water Resources Control Board:

Heal the Bay is a nonprofit organization with over 15,000 members dedicated to making the coastal waters and watersheds of Greater Los Angeles safe, healthy and clean. We have reviewed the following documents in regards to the proposed amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the Total Maximum Daily Loads (TMDLs) for trash in Revolon Slough/Beardsley Wash and the Malibu Creek Watershed:

- Reconsideration of the Revolon Slough / Beardsley Wash Trash TMDL and the Malibu Creek Watershed Trash TMDL (Staff Report).
- Resolution No. R18-006: Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Load for Trash in the Malibu Creek Watershed (Malibu Creek Watershed Proposed Amendment)
- Resolution No. R18-005: Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Load for Trash in Revolon Slough and Beardsley Wash (Revolon Slough / Beardsley Wash Proposed Amendment).
- Comment Summary and Responses: Reconsideration of the Revolon Slough / Beardsley Wash Trash TMDL and the Malibu Creek Watershed Trash TMDL (Regional Board Response to Comments).

On behalf of Heal the Bay, we respectfully submit the following comments in response to the Staff Report, Malibu Creek Watershed Proposed Amendment, the Revolon Slough / Beardsley Wash Proposed Amendment, and the Regional Board Response to Comments.

In reviewing the above listed documents, we have come to the following conclusions:

1. The minimum frequency of trash assessment and collection (MFAC) programs must be adaptively managed based on continuing TMRP and MFAC data to ensure that the “zero trash” objectives are maintained in the future.



2. We oppose the proposed amendment that requires compliance with waste load allocations (WLAs) by addressing point sources of trash only in priority land use areas. Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas until 100% trash reduction is achieved.
3. There must be sufficient explanation or penalties for Responsible Jurisdictions that are not in compliance with TMDLs for both point and non-point sources of trash.

These conclusions are discussed in further detail below, looking first at the Statewide Trash Amendment and its implications, then at the Malibu Creek Watershed Proposed Amendment, and finally at the Revolon Slough / Beardsley Wash Proposed Amendment.

THE STATEWIDE TRASH AMENDMENT

The Statewide Trash Amendment, adopted in April 2015, provides statewide consistency between the different Regional Boards for their regulatory approach to reducing trash pollution in waterways¹. Under the Statewide Trash Amendment, MS4 permittees are only required to address point sources within priority land use areas. This can be done with full capture systems, or an approved best management practices (BMP) program with equivalent results. Priority land use areas are defined as high density residential, industrial, commercial and mixed urban areas as well as public transportation stations.

Trash TMDLs that were in effect prior to April 2015 take precedence over this Statewide Trash Amendment. The Revolon Slough / Beardsley Wash Trash TMDL was implemented in 2007 and the Malibu Creek Watershed Trash TMDL was implemented in 2008. Any revisions made to align the Revolon Slough / Beardsley Wash Trash TMDL or the Malibu Creek Watershed Trash TMDL with the Statewide Trash Amendment must be sufficient to maintain the original 2007/2008 “zero trash” water quality objectives.

MALIBU CREEK WATERSHED TRASH TMDL AND PROPOSED AMENDMENTS

The Malibu Creek Watershed is the most undeveloped watershed in the Los Angeles area. The open space, wildlife and park land provide opportunity for improving biodiversity, and for tourism and recreation. Unfortunately, five waterways in the Malibu Creek Watershed (Malibu Creek, Medea Creek, Lindero Creek, Lake Lindero and Las Virgenes Creek) have been identified as impaired due to trash and

¹ State Water Resources Control Board. 2015. Resolution 2015-0019: Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries of California.

https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2015/rs2015_0019.pdf ²

Heal the Bay. 2013. Malibu Creek Watershed Ecosystem on the Brink.

<https://healthebay.org/wpcontent/uploads/2016/12/Heal-the-Bay-Malibu-Creek-Watershed-Report-Ecosystem-on-the-Brink.pdf>



placed on the Clean Water Act (CWA) 303(d) list of impaired water bodies. This trash pollution is an identified stressor effecting the ecosystem of the Malibu Creek Watershed². Efforts must be made to remove this trash before it enters the waterways and harms local wildlife. The 2008 Trash TMDL established a “zero trash” objective in order to protect beneficial uses in the Malibu Creek Watershed.

Trash is being discharged from both priority and non-priority land use areas in the Malibu Creek Watershed.

The Staff Report recognizes that there is a potential for non-priority land use areas to discharge significant amounts of trash to impaired water bodies in the Malibu Creek Watershed. The highest amounts of trash were found at sites CSM_LDC1 (downstream of non-priority land use area), MC1 and LC1 (downstream of mixed and non-priority land use area) and CMS_LDC1 and CMS_LVC2 (downstream of priority land use area). Trash is accumulating from priority and non-priority land use areas. Non-priority land use areas must also have full capture systems, or another approved equivalent program.

The Staff Report also recognizes that there are priority land use areas upstream and/or in near proximity to non-priority land use areas in the Malibu Creek Watershed, such that trash from priority land use areas may enter MS4s in nearby non-priority land use areas. This may be contributing to the high trash levels observed at CSM_LDC1, MC1 and LC1. Full capture systems installed in the non-priority areas would prevent any transported trash from entering the waterways.

Trash TMDL compliance is not yet being met in the Malibu Creek Watershed. Stronger regulatory action is required, and full capture systems or equivalent programs should be installed in priority and non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.

The 2008 Malibu Creek Trash TMDL required responsible entities to comply with WLAs by addressing all point sources of trash with full capture systems, or an approved program with equivalent results. Full capture systems have been installed by three responsible jurisdictions within the Malibu Creek Watershed: Los Angeles County, Ventura County, and the City of Agoura Hills. In these areas, significant trash reductions has been observed, according to the Staff Report. Additional full capture system implementation plans have been proposed by the Cities of Hidden Hills, Malibu and Thousand Oaks. The Cities of Calabasas and Westlake Village have not initiated implementation of full-capture systems or an equivalent program.

Responsible jurisdictions within the Malibu Creek Watershed have been deemed in compliance with the 2008 Trash TMDL for non-point sources because the MFAC program achieves the “zero trash” objective following each collection event. However, as stated in the Staff Report, a harmful amount of trash accumulates at some sites between these collection events. The MFAC program is therefore not sufficient to protect the Malibu Creek Watershed against trash pollution. Therefore, we believe that the responsible jurisdictions should not be deemed in compliance. Enforcement action must be taken for responsible jurisdictions that do not comply with the TMDL requirements for non-point sources.



The Malibu Creek Watershed Proposed Amendment allows permittees to only install full-capture systems in high priority areas, as long as the MFAC program is sufficient. As stated above, this is not the case. In the Regional Board Response to Comments, staff stated that an additional requirement in the Malibu Creek Watershed Proposed Amendment to improve the MFAC program addresses this issue. However, since the permittees have not yet demonstrated a sufficient MFAC Program, we oppose the proposed amendment to require addressing point sources of trash only in priority land use areas. Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.

Regional Board Proposed Amendments

Regional Board staff conclude that full-capture systems installed only in priority land use areas will be sufficient as long as an effective MFAC program is established. The revised TMDL does require a revised TMRP and MFAC Program where needed.

Heal the Bay Recommendations

An effective MFAC Program has not yet been established for the Malibu Creek Watershed Trash TMDL as harmful amounts of trash have historically accumulated between collection periods. The potential of trash pollution between these MFAC events still poses a risk to the Malibu Creek Watershed ecosystem. Therefore, the amount of trash entering the waterways should be eliminated to the extent practicable by addressing all point sources (on priority and non-priority land) until 100% trash reduction is achieved. Full capture systems should first be installed in priority land use areas to address high volume trash discharge, but they must also be installed in non-priority land use areas to address the additional trash discharge. In addition, an effective MFAC Program must be established to address any remaining trash from non-point sources.

REVOLON SLOUGH/BEARDSLEY WASH TRASH TMDL AND PROPOSED AMENDMENTS

Similar to conditions in the Malibu Creek Watershed, trash pollution poses an environmental health risk to the ecosystems of Revolon Slough and Beardsley Wash. Segments of these waterways were placed on the CWA 303(d) list as impaired for trash. The 2007 Revolon Slough / Beardsley Wash Trash TMDL established a "zero trash" objective to protect water quality and beneficial uses.

Trash is being discharged from both priority and non-priority land use areas in the Revolon Slough / Beardsley Wash area.

The Staff Report recognizes that there is a potential for non-priority land use areas to discharge significant amounts of trash to impaired water bodies. 1040 out 1900 catch basins within the Revolon Slough / Beardsley Wash area are categorized as non-priority land use areas. The highest amounts of trash were found at Sites 1, 3a-d and 8, which are located downstream of both priority and non-priority



land use areas. Non-priority land use areas must have full capture systems or other approved projects with an equivalent effect.

The Staff Report also recognizes that there are priority land use areas upstream and/or in near proximity to non-priority land use areas in the Revolon Slough / Beardsley Wash area, such that trash from priority land use areas may enter MS4s in non-priority land use areas. This may be contributing to the high trash levels observed at Sites 1, 3a-d and 8. Full capture systems installed in the non-priority areas would prevent this trash from entering the waterways.

TMDL compliance is not yet being met in the Revolon Slough / Beardsley Wash area. Stronger regulatory action is required, and full capture systems or equivalent programs should be installed in priority and non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.

The 2007 Revolon Slough / Beardsley Wash Trash TMDL requires responsible entities to comply with WLAs by addressing all point sources of trash with full capture systems, or an approved program with equivalent results. Full capture systems have been installed in Ventura County and the City of Camarillo. Installation of full capture systems has proven effective in reducing trash in our waterways. BMP Programs have been completed in the City of Oxnard, with proposed full capture systems planned, pending funding.

Responsible jurisdictions within Revolon Slough and Beardsley Wash have been deemed in compliance with the 2007 Trash TMDL for non-point sources because zero trash is observed following each MFAC event. However, the Staff Report states that, following monthly visual assessment and collection, some special collection events were necessary. The MFAC program is therefore not sufficient to protect Revolon Slough and Beardsley Wash against trash pollution. We believe that the responsible jurisdictions should not be deemed in compliance. Enforcement action must be taken for responsible jurisdictions that do not comply with the TMDL requirements for non-point sources.

The Revolon Slough / Beardsley Wash Proposed Amendment allows permittees to only install full-capture systems in high priority areas, as long as the MFAC program is sufficient. As stated above, this is not the case. In the Regional Board Response to Comments, staff stated that an additional requirement in the Revolon Slough / Beardsley Wash Proposed Amendment to improve the MFAC addresses this issue. However, since the permittees have not yet demonstrated a sufficient MFAC Program, we oppose the proposed amendment to require addressing point sources of trash only in priority land use areas. Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.



Regional Board Proposed Amendments

Regional Board staff conclude that full-capture systems installed only in priority land use areas will be sufficient as long as an effective MFAC program is established. The revised TMDL does require a revised TMRP and MFAC Program where needed.

Heal the Bay Recommendations

An effective MFAC Program has not yet been established for the Revolon Slough / Beardsley Wash Trash TMDL as special collection events have been necessary. The potential of trash pollution between these MFAC events poses an environmental risk. Therefore, the amount of trash entering the waterways should be eliminated to the extent practicable by addressing all point sources (in priority and non-priority land) until 100% trash reduction is achieved. Full capture systems should first be installed in priority land use areas to address high volume trash discharge, but they must also be installed in non-priority land use areas to address the additional trash discharge. In addition, an effective MFAC Program must be established to address any remaining trash from non-point sources.

HEAL THE BAY RECOMMENDATIONS FOR AMENDMENTS TO THE REVOLON SLOUGH / BEARDSLEY WASH AND MALIBU CREEK WATERSHED TRASH TMDLS.

We oppose the proposed amendment that require MS4 Permittees to comply with WLAs by addressing point sources of trash only in priority land use areas. The harmful amounts of trash accumulating between collection events, even downstream of non-priority land use areas, poses a risk to the ecosystems in Revolon Slough, Beardsley Wash and the Malibu Creek Watershed. Trash pollution must be removed to the extent practicable *before* it enters the waterways by addressing all point sources of discharge (in priority and non-priority land use areas). Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas. An effective and adaptive MFAC Program must also be established to address remaining trash from non-point sources.

Thank you for the opportunity to comment on the Proposed Amendments to the Basin Plan to revise the TMDLs for Trash in Revolon Slough/Beardsley Wash and the Malibu Creek Watershed. If you have any questions concerning this comment letter, please feel free to contact Annelisa Moe through e-mail at amoe@healthebay.org or by phone at (310) 451-1500 X 139.

Sincerely,


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