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STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION – DIVISION OF WATER QUALITY TBD

ITEM

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN 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

DISCUSSION

Trash in the Los Angeles River Watershed, located in Los Angeles County, is causing impairment of beneficial uses. The Los Angeles River flows 51 miles from the western end of the San Fernando Valley to the Queensway Bay and Pacific Ocean at Long Beach. In addition to the Los Angeles River, several tributaries and lakes are part of the watershed, which drains an area of about 834 square miles. The urbanized portion of the watershed is 609 square miles while the remaining area is mostly taken up by the Angeles National Forest. Current land use in the urban portion of the watershed is 50.8 percent residential, 22.1 percent open space and recreation, 7.8 percent industrial, 6.7 percent commercial, 5.6 percent public facilities and educational institutions, and 4 percent transportation. The Los Angeles River Watershed is divided into six reaches. The 2006 Clean Water Act 303(d) list identifies Reaches 1, 2, 3, 4, and 5 of the Los Angeles River Watershed, because they do not meet water quality standards for trash. Tujunga Wash, Burbank Western Channel, Verdugo Wash (Reaches 1 & 2), Arroyo Seco (Reaches 1 & 2), and Rio Hondo (Reach 1) are tributaries of the Los Angeles River Watershed that are also listed because they do not meet water quality standards for trash. In addition, Peck Road Lake, Echo Park Lake, and Lincoln Park Lake are listed because they do not meet water quality standards for trash. The proposed TMDL addresses impairments of water quality caused by trash in the afore-mentioned water bodies of the Los Angeles River Watershed.

The following designated beneficial uses are impaired by trash: water contact recreation (REC1); non-contact water recreation (REC2); warm freshwater habitat (WARM); wildlife habitat (WILD), estuarine habitat (EST); marine habitat (MAR); rare and threatened or endangered species (RARE); migration of aquatic organisms (MIGR); spawning, reproduction and early development of fish (SPWN); commercial and sport fishing (COMM); shellfish harvesting (SHELL); wetland habitat (WET); and cold freshwater habitat (COLD).

[Resolution No. 07-012](#) establishes the numeric target with which wasteload allocations for point source discharges are calculated. The numeric target of “zero” trash was derived based on the narrative water quality objectives of *Floating Material*, and *Solid, Suspended, or Settleable Materials*, specified in the Los Angeles Regional Water Quality Control Board’s (Los Angeles Water Board) Basin Plan (pages 3-9; 3-16). To comply with wasteload allocations, a responsible jurisdiction may install an adequately sized and maintained full capture system that meets the minimum criteria outlined in the amendment, subject to Executive Officer (EO) approval. Wasteload allocations are assigned to the permittees and co-permittees of the Los Angeles County Municipal Stormwater Permit (hereinafter referred to as permittees) and the

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California Department of Transportation (Caltrans). In addition, wasteload allocations may be issued to additional facilities in the future under Phase II of U.S. Environmental Protection Agency (U.S. EPA) Stormwater Permitting Program. Wasteload allocations assigned under the Municipal Separate Storm Sewer Systems (MS4) permit and the Caltrans permit will be based on a phased reduction from the estimated current discharge (i.e., baseline) over a nine-year period until the final wasteload allocation (currently set at zero) is met. Permittees under the Phase II Stormwater Permitting Program will also be assigned a final wasteload allocation of zero trash discharge. The baseline allocation for the MS4 permittees is derived from data collected during the Baseline Monitoring Program conducted by the Los Angeles County Department of Public Works, as prescribed in the September 19, 2001 Los Angeles River Trash TMDL. An implementation report, outlining the manner in which responsible agencies intend to comply with the TMDL, will be prepared by the responsible agencies six months after the effective date of the TMDL.

The cost of implementing this TMDL will range widely, depending on the method that the permittees select to meet the wasteload allocations. Enforcement of existing litter ordinances could be used to achieve the final wasteload allocations at minimal or no additional cost. The most costly approach in the short-term is the installation of full capture systems on all discharges to the Los Angeles River Watershed. However, in the long-term, this approach is expected to result in lower labor costs and may be less expensive than some other approaches.

The legal background of this TMDL is as follows: On September 19, 2001, the Los Angeles Water Board adopted a trash TMDL for the Los Angeles River Watershed (Resolution No. 01-013). The TMDL was approved by the State Water Resources Control Board (State Water Board) on February 19, 2002 and by the Office of Administrative Law (OAL) on July 16, 2002. U.S. EPA approved the Los Angeles River Watershed Trash TMDL on August 1, 2002. The City of Los Angeles and the County of Los Angeles both filed petitions in Los Angeles County Superior Court on February 26, 2001 challenging the Los Angeles River Watershed Trash TMDL. Subsequent negotiations led to a settlement agreement, which became effective on September 23, 2003. Twenty-two other cities sued the Los Angeles Water Board and the State Water Board (collectively "Water Boards") to set aside the Los Angeles River Watershed Trash TMDL. On January 26, 2006, the Appellate Court found that the Water Boards did not adequately complete the environmental checklist, and that evidence of a "fair argument" of significant impacts existed such that the Water Boards should have performed a more thorough analysis (*City of Arcadia v. State Water Resources Control Board* (2006) 135 Cal. App.4th 1392,1420-26). The writ of mandate issued by the Los Angeles Superior Court ordered the Water Boards to set aside the TMDL, until it had been adopted in accordance with the California Environmental Quality Act (CEQA). On June 8, 2006, the Los Angeles Water Board set aside the trash TMDL.

Setting aside the TMDL was not deemed a repudiation of the settlement agreement entered into between the Los Angeles Water Board and the City of Los Angeles and the County of Los Angeles, which was executed on September 24, 2003, and the Los Angeles Water Board expressed its continued intent to abide by that agreement. The Los Angeles Water Board also directed staff to revise the CEQA documentation as directed by the writ of mandate, and to prepare and submit for the Los Angeles Water Board's reconsideration, a TMDL for Trash in the Los Angeles River Watershed, consistent with the requirements of the writ.

On August 9, 2007, the revised TMDL ([Resolution No. 07-012](#)) with the required CEQA documentation was adopted by the Los Angeles Water Board.

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POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan to incorporate a TMDL for trash in the Los Angeles River Watershed as adopted under Los Angeles Water Board [Resolution No. 07-012](#)?

FISCAL IMPACT

Los Angeles Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL WATER BOARD IMPACT

Yes, approval of this resolution will amend the Los Angeles Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan as adopted under Los Angeles Water Board [Resolution No. 07-012](#).
2. Authorizes the Executive Director or designee to submit the amendment adopted under Los Angeles Water Board [Resolution No. 07-012](#) to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the TMDL.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

APPROVING AN 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

WHEREAS:

1. On September 19, 2001, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted a Basin Plan amendment (Resolution No. 01-013) incorporating the Los Angeles River Watershed Trash TMDL for the Coastal Watersheds of Los Angeles and Ventura Counties. The TMDL was approved by the State Water Resources Control Board (State Water Board) on February 19, 2002 and by the Office of Administrative Law (OAL) on July 16, 2002. The United States Environmental Protection Agency (U.S. EPA) approved the Los Angeles River Watershed Trash TMDL on August 1, 2002.
2. The City of Los Angeles and the County of Los Angeles filed petitions in Los Angeles Superior Court challenging the Los Angeles River Watershed Trash TMDL. Negotiations led to a settlement agreement, which became effective on September 23, 2003.
3. On January 26, 2006 following a lawsuit by 22 cities to set aside the TMDL, a California Appellate Court affirmed that the Los Angeles Water Board had not complied with the California Environmental Quality Act (CEQA). On June 8, 2006, the Los Angeles Water Board set aside the trash TMDL, pursuant to the writ of mandate.
4. On August 9, 2007, the Los Angeles Water Board adopted [Resolution No. 07-012](#) amending the Basin Plan to incorporate a TMDL for trash in the Los Angeles River Watershed.
5. The TMDL for trash in the Los Angeles River Watershed is designed to protect the aquatic life habitat, water contact recreation, and non-contact water recreation beneficial uses of the Los Angeles River Watershed and to achieve the narrative water quality objectives set to protect those uses.
6. The Los Angeles Water Board found that the analysis contained in the Final Project Report, the CEQA "substitute documentation" for the proposed Basin Plan amendment, including the CEQA Checklist, the staff report, and the responses to comments prepared by Los Angeles Water Board staff complies with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.
7. The State Water Board finds that in amending the Basin Plan to establish this TMDL, the Los Angeles Water Board complied with the requirements set forth in sections 13240 and 13242 of the California Water Code. The State Water Board also finds that the TMDL is consistent with the requirements of federal Clean Water Act section 303(d).

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8. The Los Angeles Water Board found that adoption of this amendment is consistent with the State Antidegradation Policy ([State Water Board Resolution No. 68-16](#)), in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies.
8. The Los Angeles Water Board established a loading capacity, represented as a numeric target for the Los Angeles River Watershed, at zero trash. Compliance with this trash load will be based on a nine-year implementation schedule.
9. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. The TMDL must also be approved by USEPA.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan as adopted under Los Angeles Water Board [Resolution No. 07-012](#).
2. Authorizes the Executive Director or designee to submit the amendment adopted under Los Angeles Water Board [Resolution No. 07-012](#) to OAL for approval of the regulatory provisions and to USEPA for approval of the TMDL.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on (TBD).

Jeanine Townsend
Clerk to the Board