



August 1, 2014

Chair Felicia Marcus and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Sent via email: commentletters@waterboards.ca.gov

RE: Proposed State Water Quality Control Policy for Controlling Trash in Waters of the State

Dear Chairperson Marcus and State Board Members:

On behalf of Surfrider Foundation (“Surfrider”) and our over 30,000 activists and 20 local Chapters in the state of California, we are writing today to commend and generally support the proposed Trash Amendments to the Ocean Plan, and to encourage the State Water Resources Control Board (“Board”) to strengthen the policy to ensure the preservation and quality of California’s water resources.

All of our chapters conduct regular beach clean ups where they see plastic, in the form of bags, bottles, and other trash, cigarette butts, and other marine litter that degrades our beaches and the marine environment and ruins the recreational experience. During a recent Surfrider Foundation beach cleanup, 278 pounds of trash was recovered in a single day, including 53 pounds of recyclable material, 3,755 cigarette butts, and over 1,244 plastic items related to food packaging and consumption.¹ Over 80% of trash in our oceans is from land-based sources² – if we reduce the amount of trash we create and capture the rest, we can rid our water resources of trash pollution. Surfrider advocates a comprehensive and enforceable trash policy that will both reduce the amount of trash we create and stop trash from escaping to our waters, treating not only the symptoms, but also the disease.

Surfrider generally supports the trash amendments, but urges the Water Board to adopt a policy with the following recommendations: (1) Monitoring, reporting, and mandatory reduction rates must be explicitly stated to ensure statewide consistency, compliance, and enforcement; (2)

¹ The Full Pint, “Karl Strauss Employees Remove 278 Pounds of Trash From Local Beach”
<http://thefullpint.com/beer-news/karl-strauss-employees-remove-278-pounds-trash-local-beach/>

² United Nations. Marine Litter: Trash that Kills, p. 10.
http://www.unep.org/regionalseas/marinelitter/publications/docs/trash_that_kills.pdf (Accessed: July 22, 2014).

Source controls must be strongly incentivized to eliminate and reduce the creation of trash; (3) Regional Boards should be required to identify high-use beaches and other non-point source trash hot spots and adopt best management practices (BMPs); (4) All permittees should be given no longer than 5 years to comply with Policy; and (5) The Policy should set a statewide numeric water quality objective of “zero trash.”

Mandatory Monitoring, Reporting, and Annual Numeric Reduction Criteria

An enforceable statewide trash policy will have annual numeric reduction criteria with specific deadlines to ensure enforcement of the policy is feasible and effective. In addition, a statewide trash policy should have mandatory monitoring and reporting requirements to determine actual reduction rates. The proposed Trash Amendments do not require monitoring and reporting of reduction rates under Track 1. Neither track states numeric annual reduction criteria. Both tracks should require numeric monitoring and reporting. This ensures a uniform, efficient, and reliable system that holds permittees equally accountable. Permittees will adopt additional source and institutional controls to meet these monitoring and reporting requirements ensuring swift compliance.

As stated above, Surfrider supports eliminating trash at the source in addition to capturing it before it enters our water. Placing annual numerical reduction criteria on permittees incentivizes them to adopt source bans and implement other institutional controls such as educational outreach, even if permittees choose Track 1. While Surfrider supports the use of catch technology, the use of catch systems alone does not prove actual trash reduction goals are being met. On the other hand, placing numeric reduction criteria on permittees would ensure timely compliance. To meet annual reduction goals permittees would be incentivized to supplement full catch systems with other source controls and institutional controls.

Narrative criteria can be unsuccessful because they are not precise, and therefore difficult to enforce. Additionally, enforcement of narrative criteria is staff-intensive and therefore costly. The Board itself stated, “Compliance determination for these effluent limitations at storm water facilities therefore depends heavily upon site visits that include specific observations, analysis, and documentation by Water Board staff.”³ To remedy this expensive problem, the Board should adopt numeric annual reduction criteria: the most efficient, enforceable policy possible keeping in mind limited staff resources.

In order to monitor a permittee’s compliance with numeric annual reduction criteria, permittees must monitor and report trash reduction. The Board should adopt guidelines for such practices, eliminating regional inconsistencies and establishing a uniform standard.

Source Controls Must Be Strongly Incentivized Irrespective of the Track Chosen

³State Water Resources Control Board, “2007 13385(o) Staff Report” p. 16. http://www.swrcb.ca.gov/water_issues/programs/enforcement/docs/13385o_2007draft_v9_1.pdf (Accessed: July 23, 2014).

Surfrider urges the Board to adopt a policy that incentivizes elimination of trash at the source of its use, rather than simply dealing with trash after it has already been created. Specifically, single-use plastics pose a major problem not only for our waterways, but also for our landfill infrastructure and are a misuse of natural resources. To address the threat to our waterways, Surfrider recommends incentivizing source controls that will help the Board attain its own goals of ridding pollution from our waters. The Board can influence municipalities through the Trash Amendments in two ways: First, it can incentivize source controls such as plastic bag bans by allowing extended time for compliance to municipalities who enact such a source control measure. Second, the Board should adopt a policy that incentivizes source controls under both Track 1 and Track 2.

Surfrider supports incentivizing source controls, such as plastic bag bans, by allowing municipal permittees compliance time extensions for each source control it implements, limiting the time extension to three years. We also support time extensions for source controls in place up to three years prior to the enactment of these Trash Amendments. We do not want to punish municipalities for being leaders in implementing source bans. In addition, municipalities with source bans already in place are likely already prioritizing trash reduction, so allowing a time extension for compliance will not significantly hinder efforts to reduce trash in an efficient manner.

Surfrider further recommends that the Trash Amendments incentivize source controls under both available tracks. Track 1 of the proposed Trash Amendments is the easier track to follow given its lack of mandatory monitoring for actual trash reduction, yet it does not incentivize source controls. Without strict monitoring requirements and numerical trash reduction goals, Track 1 does not incentivize source controls the same way that Los Angeles' full catch system requirement naturally does because it lacks numerical goals. An additional benefit of source reduction measures is the resulting reduction in amount of trash that enters municipal landfills and is otherwise a burden on city and state infrastructure. Numerical goals incentivize source control measures since source reduction is the most effective and efficient way to keep trash out of surface water. If permittees have stringent requirements that must be met, they will do everything possible to reduce both the amount of trash created and the amount of trash entering the water.

Require Local Boards To Identify Non-Point Source Trash Hot Spots And Adopt BMPs

High-traffic beaches and parks represent a significant amount of trash that enters the water. Beaches and parks are frequently located near water resources such as rivers and oceans resulting in pollution "hotspots." Surfrider urges the Board to remove discretionary language and require local water boards to identify non-point source polluters such as beaches, and adopt issue waste discharge requirements ("WDRs"). Surfrider recommends specifically addressing beaches as trash hotspots. We further recommend requiring permittees to conduct trash hotspot surveys to determine areas where trash is being directly discharged into a body of water.

Furthermore, the proposed Trash Amendments only apply to "priority land uses." Priority land uses do not include low-density residential and rural areas. Sound policy will not exclude any portion of the state from compliance with the proposed Trash Amendments.

Require Compliance Within Five Years of the Policy's Adoption

A ten to fifteen year compliance deadline far exceeds the time frame necessary to implement these measures to eliminate trash from our waters.. Trash pollution, especially plastic pollution, is an urgent problem that poses serious risks to public health and the environment. The State Board should act firmly and swiftly to deal with this statewide problem. Therefore, Surfrider recommends reducing the compliance deadline to five years.

A shortened compliance deadline will encourage permittees to use every available tool to reduce trash, including source bans, educational outreach, street-sweeping, full catch systems, etc. The entire state is already thirteen years behind the City of Los Angeles, which adopted its policy in 2001. Further, the amount of plastic produced between 2000 and 2010 exceeds the amount of plastic produced during the entire century prior.⁴ Continuing plastic production at this rate for the next ten to fifteen years means continuing disposal, and inevitably, continuing pollution. Simply put, the State of California does not have ten to fifteen years to rid its waters of trash.

Statewide Numeric Water Quality Objective of “Zero Trash”

As Surfrider previously expressed in its October 14, 2010 letter to the Board, Surfrider continues to advocate for a policy that explicitly states a goal of “zero trash” consistent with the approach taken by the Los Angeles Regional Water Quality Control Board. A goal of “zero trash” proves itself reasonably attainable as Los Angeles is under budget and ahead of schedule.⁵

If the goal of the Board is truly to prohibit the discharge of trash into surface waters, it should clearly state a goal of zero. If that is not the goal of the Board, then the board must create a specific numerical goal, not to be exceeded by permittees. Surfrider does *not* recommend the latter course of action, as it has been determined that a single piece of trash interferes with beneficial uses of water resources.⁶ Without such specific numeric goals, the Trash Amendments potentially permit some amount of trash in surface waters, but provide no consistent statewide limit, which will lead to inequitable enforcement.

The Los Angeles Regional Water Quality Control Board (LARWQCB) has demonstrated that a zero trash TMDL is an attainable and affordable goal that will protect human health and the environment. As of September 30, 2013, the City of Los Angeles reported 90% trash reduction to both the LA River and the Ballona Creek watersheds. Other watersheds are not far

⁴ Thompson, R.C. “Plastics, the environment and human health: current consensus and future trends.” *Philosophical Transactions of the Royal Society B-Biological Sciences*. 364.1526 (2009):2153-2166.

⁵ City of Los Angeles Stormwater Program, *Los Angeles River Trash TMDL*, http://www.ci.la.ca.us/san/wpd/Siteorg/program/TMDLs/tmdl_lariver_trash.htm (last visited Oct. 7, 2010).

⁶ *City of Arcadia et al. v. Los Angeles RWQCB et al.*, 135 Cal. App. 4th 1392, 1413, 1427-30 (2006).

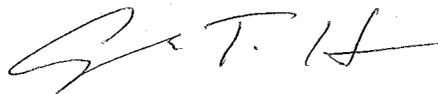
behind ranging from 60% reduction to 80% reduction and all are on track to be in full compliance by the 2016 deadline.⁷

Finally, State Water Board policy should ensure that Regional Boards are regulating in a uniform fashion to achieve a zero trash numerical objective. This will allow the regions to collaborate on the implementation and enforcement approaches and techniques. Also, if every region enacts the same zero discharge standard, then polluters will not be tempted to dump in regions with a more lax discharge standard. If uniformity at this higher level is not possible, the State Board should allow for Regional Boards to maintain high standards (and not be preempted with lower standards) so that they may conform with the desires and necessary protections needed for their local watersheds.

If the Board refuses to adopt a “zero trash” policy, we urge the Board, at minimum to change the language from “trash shall not *accumulate* in ocean waters” to “ocean waters shall not *contain* trash.”

Thank you for addressing this important topic and taking the issue of ocean litter as a serious priority. Californians highly treasure their beaches. State Water Board support is needed to ensure the health of our world-renowned shorelines, and we believe development and implementation of a strong trash policy that addresses the aforementioned recommendations will reap significant benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela T. Howe". The signature is fluid and cursive, with the first name being the most prominent.

Angela T. Howe, Esq.
Legal Director
Surfrider Foundation

⁷ The California Water Board’s Annual Performance Report – Fiscal Year 2012-2013.
http://www.waterboards.ca.gov/about_us/performance_report_1213/plan_assess/11112_tmdl_oucomes.shtml