STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – LOS ANGELES REGIONAL WATER BOARD
FEBRUARY 22, 2017

ITEM 6

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION (BASIN PLAN) TO ESTABLISH AN IMPLEMENTATION PLAN FOR THE MALIBU CREEK NUTRIENTS TMDL AND THE MALIBU CREEK AND LAGOON TMDL FOR SEDIMENTATION AND NUTRIENTS TO ADDRESS BENTHIC COMMUNITY IMPAIRMENTS.

DISCUSSION

On December 8, 2016, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. R16-009, amending the Basin Plan to establish an Implementation Plan for two TMDLs that were previously established by the United States Environmental Protection Agency (U.S. EPA). U.S. EPA established the Malibu Creek Watershed TMDL for Nutrients on March 21, 2003 and the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Impairments on July 2, 2013. The U.S. EPA-established TMDLs include the problem statement, numeric targets, source analysis, loading capacity, load allocations (LAs), waste load allocations (WLAs), and margin of safety. An implementation plan is not a required element of a TMDL established by U.S. EPA; therefore, these TMDLs do not include implementation plans or schedules for implementation. This proposed amendment incorporates an implementation plan for the two U.S. EPA-established TMDLs into the Basin Plan to provide a schedule for responsible entities to attain the TMDLs. It does not alter any of the technical elements of the two U.S. EPA-established TMDLs.

Background on U.S. EPA-established TMDLs

The 2003 TMDL addresses impairments due to ammonia, nutrients, dissolved oxygen, algae, scum, and odor in Malibu Lagoon, Malibu Creek and its tributaries, and four lakes in the watershed (Lake Sherwood, Malibou Lake, Lindero Lake, and Westlake Lake). The 2013 TMDL addresses impairments due to impacted benthic macroinvertebrates and sedimentation/siltation in Malibu Creek and Las Virgenes Creek, and impairments due to adverse benthic community effects in Malibu Lagoon. The 2003 TMDL applies to the whole watershed, while the 2013 TMDL applies to the eastern portion of the watershed below Malibou Lake as well as the four lakes named above. The sources of nutrients and/or sedimentation in the Malibu Creek Watershed are point sources, including MS4 discharges and discharges from the Tapia Water Reclamation Facility (WRF), and nonpoint sources, including discharges from onsite wastewater treatment systems (OWTS), Tapia WRF irrigation and sludge land disposal, and runoff from golf courses, irrigated agriculture, livestock facilities, and open space.

Implementation Plan for Nutrients

Tapia WRF

The WLAs assigned to direct discharges from the Tapia WRF will be implemented through the Tapia WRF NPDES permit. To meet the winter WLAs, the Las Virgenes-Triunfo Joint Powers Authority (JPA), who owns and operates the Tapia WRF, plans to significantly reduce the Tapia WRF's discharge to the creek by repurposing the water for irrigation and potable water using advanced treatment and seasonally storing it in the Las Virgenes Reservoir. During the summer, the Tapia WRF is prohibited from discharging to Malibu Creek except for required flow augmentation to support fish habitat, during operational emergencies, or during certain rain events. To meet the summer WLAs during the limited times that the Tapia WRF discharges to the creek, the JPA is considering treating the wastewater with a small treatment facility and/or dilution. Based on the time needed for these potential implementation scenarios, the proposed Implementation Plan requires the summer WLAs to be achieved within five years and the winter WLAs to be achieved within thirteen and a half years. The LAs assigned to indirect discharges from the Tapia WRF will be implemented through Water Reclamation Requirements and the Rancho Las Virgenes Waste Discharge Requirements (WDRs), and shall be attained upon the effective date of the proposed Implementation Plan.

MS4 Permittees

The nutrient WLAs shall be achieved by the Los Angeles County MS4 Permittees by December 28, 2023, by the Ventura County MS4 Permittees within five years of the effective date of the MS4 permit renewal, but no later than 10 years from the effective date of the proposed Implementation Plan, and by Caltrans according to the schedule in the TMDL Reach Prioritization plan required by Order No. 2012-0011-DWQ, but no later than 2032.

Irrigated Agriculture, Livestock, and Golf Courses

Nonpoint sources will be regulated through WDRs or conditional waivers of WDRs consistent with the State Water Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program. Agricultural lands shall achieve the nutrient LAs by October 14, 2022. Livestock facilities and golf courses shall achieve the nutrient LAs within five years.

OWTS

The LAs for OWTS shall be implemented through WDRs or conditional waivers of WDRs and local agency oversight where local agencies are implementing their permitting authority through a Memorandum of Understanding with the Regional Water Board, according to the State Water Board's Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy requires an Advanced Protection Management Program (APMP), including supplemental treatment requirements, for OWTS near impaired waterbodies. According to the U.S.EPA-established TMDLs, the geographic area for the APMP is the entire Malibu Creek watershed. The proposed Implementation Plan allows for local agencies to conduct special studies to refine the areas of the APMP through their Local Agency Management Programs. OWTS within the APMP shall achieve the nutrient LAs within 10 years.

Lakes

The nutrient LAs for overflows from Malibou Lake, Lindero Lake, Westlake Lake, and Lake Sherwood will be implemented through WDRs, conditional waivers of WDRs, or other regulatory mechanisms in accordance with the NPS Policy. The LAs are shared among the cities, counties, state, and federal lands in the subwatersheds draining to each lake, and the

owners/operators of each lake. Cooperative parties for each lake will conduct monitoring to determine the impact of lake overflows on nutrient loading downstream. If monitoring results show an impact, then the Regional Water Board will revise the proposed Implementation Plan to include implementation methods to reduce nutrient loading to the lakes and/or within the lakes.

Implementation Plan for Sedimentation

The 2013 TMDL assigned sedimentation WLAs to the MS4 permittees below Malibou Lake, LAs to the protected land below Malibou Lake, and LAs to the areas above Malibou Lake and along Las Virgenes Creek. Compliance can be achieved through an individual compliance alternative or as part of a watershed-wide implementation alternative.

MS4 Permittees and Protected Land Below Malibou Lake: Individual Compliance
The sedimentation WLAs shall be incorporated into the Los Angeles County and Caltrans MS4 permits. The sedimentation LA for the protected land below Malibou Lake will be implemented through WDRs, conditional waivers of WDRs, or other regulatory mechanisms issued for State Parks and the National Park Service. To determine individual compliance, these entities shall monitor sediment at the F-130 gage (a stream gage located in the lower watershed). These sediment allocations shall be achieved by December 2025.

Areas Upstream of Malibou Lake and Along Las Virgenes Creek: Individual Compliance
The sedimentation LA for the area upstream of Malibou Lake is assigned to the same cooperative parties as for the nutrient LAs. The sedimentation LA for the area along Las Virgenes Creek is assigned to Ventura County. Cooperative parties above Malibou Lake and Ventura County will collect data to determine the annual sediment load. If monitoring results show that the amount of sediment discharged is greater than the sedimentation LA for each area, then the Regional Water Board will revise the proposed Implementation Plan to identify potential sedimentation WLAs and/or LAs for specific jurisdictions.

Watershed-wide Compliance
The responsible entities in the Malibu Creek Watershed may work collaboratively to develop a comprehensive implementation approach to reduce sediment transport capacity watershed-wide. This approach would include a combination of (1) projects to reduce sediment transport caused by elevated flows in the upper urbanized portion of the watershed and (2) stream restoration projects on eroding stream channels in the lower watershed caused by the elevated work on the stream. Compliance with the watershed-wide approach would be required within 15 years from the effective date of the proposed Implementation Plan.

Monitoring Requirements
The monitoring program in the proposed implementation plan consists of two components: (1) TMDL effectiveness monitoring to assess implementation progress and attainment of numeric targets, and (2) compliance monitoring to determine compliance with the WLAs and LAs. Monitoring requirements shall be included in subsequent permits or other orders.

POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan to establish an Implementation Plan for the Malibu Creek Nutrients TMDL and the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to address Benthic Community Impairments?

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 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 adopted under Los Angeles Water Board Resolution No. R16-009.

2. Authorizes the Executive Director or designee to submit the amendment adopted under Los Angeles Water Board Resolution No. Resolution R16-009 as approved, and the administrative record for this action to the Office of Administrative Law.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Action 1 to prepare, adopt, and take steps to carry out TMDLs, designed to meet water quality standards, for all impaired water bodies on the 2006 list.

D R A F T

STATE WATER RESOURCES CONTROL
BOARD RESOLUTION NO. 2017-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION TO ESTABLISH AN IMPLEMENTATION PLAN FOR THE MALIBU CREEK NUTRIENTS TMDL AND THE MALIBU CREEK AND LAGOON TMDL FOR SEDIMENTATION AND NUTRIENTS TO ADDRESS BENTHIC COMMUNITY IMPAIRMENTS

WHEREAS:

1. On December 8, 2016, the Regional Water Quality Control Board for the Los Angeles Region (Los Angeles Water Board) adopted Resolution No. R16-009, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan amendment), to establish an Implementation Plan for the Malibu Creek Nutrients TMDL and the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to address Benthic Community Impairments.

2. The Los Angeles Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) "Substitute Environmental Documents" for the proposed Basin Plan amendment, including the CEQA Checklist, the final staff report entitled "Implementation Plan for the Malibu Creek Watershed Nutrients TMDL (2003) and the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments (2013)," and the responses to comments complies with the State Water Board's regulations for the implementation of CEQA, as set forth in the California Code of Regulations, Title 23, sections 3775 through 3781. The State Water Board has reviewed the Substitute Environmental Documents for the Basin Plan amendment and concurs with Los Angeles Water Board's findings and determinations, including the Statement of Overriding Considerations.

3. The Los Angeles Water Board also adopted the Basin Plan amendment pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).

4. The Los Angeles Water Board found the Basin Plan amendment is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California (State Water Board Resolution No. 68-16) and the federal Antidegradation Policy (40 C.F.R. § 131.12), in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards.

5. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise basin plans, section 13242, which requires a program of implementation for achieving water quality objectives, and section 13141, which requires an estimate of the total cost of the implementation of an agricultural water quality control program, along with an identification of potential sources of financing. The State Water Board also finds that the TMDL as reflected in the Basin Plan amendment is consistent with the requirements of section 303(d) of the federal Clean Water Act.

6. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under Los Angeles Water Board Resolution No. R16-009.

2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under Los Angeles Water Board Resolution No. R16-009 to OAL for approval of the regulatory provisions and to U.S. EPA 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 February 22, 2017.

Jeanine Townsend
Clerk to the Board