

VENTURA COUNTY



PUBLIC WORKS AGENCY
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WATERSHED PROTECTION DISTRICT

September 9, 2010

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**Subject: COMMENTS ON DRAFT STAFF REPORT AND PROPOSED RESOLUTION
BASIN PLAN AMENDMENT FOR THE SANTA MONICA BAY
NEARSHORE AND OFFSHORE DEBRIS TOTAL MAXIMUM DAILY LOAD
(TMDL)**

Dear Ms. Hada:

The County of Ventura Public Works Agency (VCPWA) and Ventura County Watershed Protection District (District) would like to take this opportunity to provide comments on the Santa Monica Bay (SMB) Nearshore and Offshore Debris TMDL (herein referred to as the SMB Debris TMDL), currently being developed by the Los Angeles Regional Water Quality Control Board (Regional Board). As stakeholders involved in many of the approved trash TMDLs in Ventura County Watersheds, including the Ventura River Estuary, Revolon Slough/Beardsley Wash, and Malibu Creek Watershed (MCW), we have actively worked with Regional Board staff to successfully develop and implement TMDLs to address trash impairments under Ventura County's jurisdiction.

The following comments presented in this letter refer to both the Draft Staff Report and the tentative Basin Plan Amendment (BPA). Additionally, on May 13, 2010, we submitted a comment letter requesting the exclusion of both VCPWA and District as responsible parties in addition discussing our concerns and key issues regarding the proposed SMB Debris TMDL (Attachment 1).

A. GENERAL COMMENTS

Please note, the VCPWA and District are implementing requirements of the MCW Trash TMDL for both point sources and nonpoint sources prior to the effective date of the SMB Debris TMDL. As required by the MCW Trash TMDL BPA, we, in cooperation with the City of Thousand Oaks, submitted on April 30, 2010 a Trash Monitoring and Reporting Plan (TMRP) for Executive Officer approval. The submitted TMRP outlines the strategies and efforts that will be implemented to meet all requirements of the MCW Trash TMDL. The proposed implementation strategies for both point and nonpoint

source requirements include structural and non-structural Best Management Practices (BMPs) and a Minimum Frequency Assessment and Collection (MFAC) Program to ensure compliance with this TMDL. We strongly believe that our proposed TMRP/MFAC program will thoroughly address trash and debris sources within the Ventura County jurisdiction that might potentially affect the SMB Watershed.

Moreover, we are currently in the process of addressing trash and debris problems countywide via implementation of the Ventura County NPDES Permit No CAS004002 (Permit) requirements. We are implementing nonstructural BMPs to meet provisions outlined in the Permit, which include countywide measures to address trash, in addition to requirements of the currently approved trash TMDLs. Non structural BMPs being developed and/or implemented include the following:

- 1) Bilingual education and outreach to students and residents in Ventura County area promoting understanding of environmental issues and how to protect surface water and stormwater quality;
- 2) Bilingual education and outreach to commercial and industrial businesses promoting a clear understanding of the potential for activities to pollute stormwater and importance of effective implementation of BMPs;
- 3) Catch basins inspections at least once a year, and cleaned at 25% or more of the unit's capacity. During storm season, all drainage facilities are inspected and cleaned as necessary;
- 4) Street sweeping of County's residential areas with drainage to Medea Creek within MCW twice per month;
- 5) All District owned-and-maintained open channels cleared, inspected, and cleaned at least once per year.
- 6) Placement of trash receptacles at public use areas and along the hiking/walking trails in the urbanized Oak Park area within MCW.
- 7) Ventura County Ordinance (6923 Litter) prohibits the disposal and accumulation of trash in public areas, private driveways, parking areas, streets, alleys, sidewalks, or components of the storm drain or any water course.
- 8) The County's catch basins are labeled, "Don't pollute, Flows to Waterways".

B. TMDL IMPLEMENTATION AND COMPLIANCE

Language in the Draft Staff Report suggests that MFAC programs may be implemented only to satisfy nonpoint source obligations. Since some responsible parties such as, the VCPWA and District have no direct discharge into the SMB shorelines, we feel that compliance with both point and nonpoint sources can be reached by implementing the above referenced MFAC program. This will be consistent with the Regional Board Resolution No. R4-2008-007 for the MCW Trash TMDL.

Requested Action:

We request the Draft Staff Report and the tentative BPA be revised to consistently state that responsible jurisdictions are responsible for both point and nonpoint sources and will be deemed in compliance with both the Waste Load Allocations (WLAs) and Load Allocations (LAs) if an MFAC/BMP program, approved by the Executive Officer, is implemented.

C. RESPONSIBLE PARTIES

The District is concerned with its naming as a point source responsible party in this SMB Debris TMDL. The **District owns and operates a small facility in Medea Creek Reach 2, which is within MCW listing of impaired water bodies, and is consequently addressed in the MCW trash TMDL.** All potential trash produced from the District's facility is addressed by the Malibu Creek TMRP submitted for approval on April 30, 2010. The District has **no** other facility in the SMB Watershed that may potentially contribute debris, trash, or plastic to the SMB beaches.

As a matter of fact, the District is concerned that the naming in this TMDL is based upon incorrect assumptions and responsibilities associated with Principal Permittee duties. The District is designated as the Principal Permittee in the Ventura County MS4 Permit. The duties are primarily defined in the Permit in the following four categories:

- Program Administration,
- Reporting,
- Monitoring, and
- Outreach.

By no means does the Principal Permittee have the authority to "coordinate and facilitate activities" for specific TMDLs. TMDLs are issued waterbody specific to identified responsible parties, not to a Stormwater Permit's regional program entity. If the naming as a responsible party in the SMB Debris TMDL is based on this assumption, we feel this is an inaccurate interpretation of the Principal Permittee duties, role, and responsibilities.

Requested Action:

The District requests to **be removed** as a responsible party for point sources in the SMB Debris TMDL.

D. SOURCE ANALYSIS

Section III Source analysis on page 30 Land based Nonpoint Sources of Plastic Pellets states that spills will be addressed by point source of plastic pellets or the MS4 Permittee. We are concerned that MS4 Permittees are required to be responsible and abate plastic pellet spills we might not even know about or have jurisdiction for. We do not understand why the MS4 Permittees should be responsible for responding to a spill

that happen during transport, transfer, or handling of plastic pellets. Plastic industries must be responsible for the proper handling and consequently must have a proper and timely responsive plan in the event of a spill.

Further, it is our understanding that responsibility to control discharges of plastic pellets or “nurdles” will be limited to industrial facilities that produce or use pellets in their operations. To better assist Regional Board staff with this effort, we have reviewed business licenses, industrial permits, and industry information available for areas falling under Ventura County’s jurisdiction. At this time, we find no information or data that indicate that **any facility** located within Ventura County produces these pellets or has the potential to discharge such pellets as part of its operation.

Requested Actions:

We request clarification of the following:

- 1) Information or data to show which facility within Ventura County has the potential to generate or discharge plastic pellets within the Malibu Creek Watershed.

E. WASTE LOAD AND LOAD ALLOCATIONS

1. WLAs and LAs are assigned to the Permittees of the L.A. County and Ventura County MS4 Permit; however, the Regional Board has not considered areas for which the County of Ventura is not responsible although they are within the County’s boundaries. Those privately owned and operated areas have the potential of generating trash and the County of Ventura unincorporated has no authority over them, thus it has no mechanism to take actions associated with this SMB Debris TMDL implementation.

Requested Action:

We request that the Regional Board revise the WLAs and include all the potential sources and jurisdictions, including private lands and independent park districts.

2. The Draft Staff Report in Section V page 32 paragraph 5 assigns LAs to the County of Ventura and others, which have jurisdiction over non-beach open space. However, this contradicts the rationale given in the same section and page in paragraph 3 to exclude other municipalities from being a responsible party in the SMB Debris TMDL. There are considerable areas under the County of Ventura jurisdiction within the SMB Watershed that are zoned as undeveloped/open space areas, yet the VCPWA is not excluded from being responsible for said areas nor is it excluded from the SMB Debris TMDL.

Additionally, Section VIII A.2.1 requires each responsible jurisdiction to identify locations where the most trash is littered and accumulated within non-beach open space/parks. We recognize that the SMB Watershed might benefit from trash cleanup events; however, we believe such frequent cleanup is

unwarranted. The VCPWA nor the District has any jurisdiction over non-County parks within the SMB Watershed. Open space, on the other hand, does not have trash accumulation warranting a monthly deployment of trash collection crews.

Requested Actions:

- 1) We request that the Regional Board revise the LAs and **remove** the County of Ventura as a responsible party for LAs assigned for the non-beach open space.
- 2) We request that the Regional Board decrease the TMRP clean-up frequency from monthly to quarterly for non-beach open space/parks to reflect a conceivable and realistic trash accumulation cycle based upon the proven linkage between trash from non-beach open space and impairments in the SMB marine waters.

F. COST ANALYSIS

The cost determination in Section X, Cost Considerations is unclear. This section references only Los Angeles County cities, excluding MFAC costs and efforts being made in Ventura County. In addition, it is unclear what the annualized costs apply and how capital costs were determined.

We disagree with the cost estimate on page 75 of the Staff Report for MFAC program implementation. The estimate assumes a single person can complete trash assessment and collection in two hours. Initial monitoring and assessment conducted in the Ventura River Watershed, Revolon Slough, and Beardsley Wash required three to four hours with at least six people to pick up trash in a 100 foot stretch of the water bodies. Additionally, it does not consider time spent during transportation and difficult access to remote open space locations.

Requested Action:

This section should be clarified and updated to correctly represent the MFAC real costs based upon underway efforts in Ventura County and other areas of L.A. County.

G. LANGUAGE CLARIFICATIONS/DEFINITIONS

MFAC Implementation and Applicability

The language in the Draft Staff Report and tentative BPA is unclear as to the extent of application of the MFAC program. The application of the MFAC program should be clearly limited to a defined area.

Many areas of the SMB Watershed are inaccessible or unsafe to access. The Draft Staff Report and tentative BPA should contain language to clarify that trash does not

have to be collected in areas posing a hazard during the baseline determination period and during MFAC implementation. Specifically, responsible jurisdictions should not have to collect trash from dense thickets of vegetation and where water depth may preclude a safe crossing.

The responsible parties may have limited jurisdiction or authority to access some areas of the SMB Watershed. Additionally, Cities and Counties may not have the local authority to access areas outside of their limits, particularly at private properties located within unincorporated areas.

Requested Actions:

- 1) We request clarification of the extent of the MFAC implementation and applicability.
- 2) We suggest the Regional Board include language acknowledging these limitations and ensuring that compliance is achieved if the MFAC program is implemented in the areas of the responsible party's authority.

Implementation and Compliance for Plastic Pellets

We have a serious concern about the jurisdictions and agencies identified as responsible parties for point sources of trash, which will need to develop and submit a Plastic Pellet Monitoring Plan (PMRP). The language in the Draft Staff Report and tentative BPA is unclear as to the extent of application of the PMRP program. The PMRP calls for protocols for a timely and appropriate response to possible pellets spillage within the Permittee's jurisdiction. We believe the plastic pellets carriers and manufacturers must have a comprehensive plan to ensure that plastic pellets are contained in the event of a spill. Additionally, clean-up activities due to plastic pellets spillage must not be responsibility of the MS4 Permittees. See Comment D "Source Analysis" page 3 of this letter for further discussion and explanation.

Requested Action:

We request removal of the PMRP submittal requirement from the SMB Debris TMDL and limit it to a notification of the Regional Board in the event of a plastic pellet spill within our jurisdiction.

Impairment of Beneficial Uses

It is our understanding that according to the 1998, 2002 and 2006 303 (d) lists, debris is impairing beneficial uses in the SMB marine waters. However, there is no documentation, nor has it been proven that open spaces and the undeveloped areas of

the SMB Watershed are directly linked and related to impairment for trash in the SMB marine waters.

Additionally, as it is written now, the non-listed tributaries of the SMB Watershed are being addressed as if they were impaired for trash with the development of the SMB Debris TMDL. This not only circumvents the process of the 303 (d) of the Clean Water Act, but it does not make sense from the pragmatic standpoint. We do not believe it is equitable or reasonable to require us to comply with point source allocations, and to retrofit lightly urbanized areas within the Unincorporated Ventura County with structural full-capture devices where trash impairments have not been properly designated.

Requested Actions:

- 1) We request a full linkage analysis and the rationale behind making the SMB Watershed and all its tributaries impaired for trash when the trash impairment is only limited to the SMB beaches and marine waters.
- 2) We request to provide us with the data, information utilized and rationale for linking Ventura County to the impairments of SMB Debris TMDL.

Site-specific Load Allocations

Section VIII A.2 on page 46 states that based on the trash generation rate derived from the TMRP “...during the first two years of implementation, the Regional Board will consider the proposal of a site specific Load Allocation.” However, neither Table 14 in the Draft Staff Report nor Table 7-34.3 of the tentative BPA has any provisions that reflect consistency in regards to the consideration of a site-specific baseline after two years of implementation.

Requested Action:

A revision of both the Staff Report and tentative BPA to include language that clearly states when and how the Regional Board will consider a proposal for the site-specific LAs.

Summary:

In short, we have a number of comments as described above regarding the SMB Debris TMDL, but three general categories of comments are of significant concern. 1) A significant issue is the responsible parties named in the TMDL, 2) The non-listed tributaries of the SMB Watershed being addressed as if they were impaired for trash without proven data and analysis, and 3) Enforcement application of the SMB Debris TMDL given the size of the SMB Watershed, mixed land uses, uncontrollable ocean-based sources, and “zero” target.

SMB Nearshore and Offshore Debris TMDL
Stefanie Hada
September 9, 2010
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We appreciate the Regional Board's considerations to the comments presented and would like to offer our time and resources to further discuss this comment letter. As always, VCPWA and District staff is willing to work cooperatively to clarify the items discussed in this letter.

Thank you for your time to consider our comments and suggestions. If you have any additional questions or require further clarification, please contact Ewelina Mutkowska at (805) 645-1382.

Sincerely,



Gerhardt Hubner
Deputy Director

Attachment 1: Letter requesting exclusion of the VCPWA and District as responsible parties in the SMB Nearshore and Offshore Debris TMDL submitted to the Regional Board on May 13, 2010.

cc: Dr. Eric Wu, LARWQCB
Norma Camacho, VCWPD Director
Jeff Pratt, PWA Director
Ewelina Mutkowska, Engineer Manager I
Ricardo Moreno, Water Quality Planner III

VENTURA COUNTY



PUBLIC WORKS AGENCY
JEFF PRATT, P.E.
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WATERSHED PROTECTION DISTRICT

May 13, 2010

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SUBJECT: REQUEST FOR EXCLUSION OF THE COUNTY OF VENTURA AND VENTURA COUNTY WATERSHED PROTECTION DISTRICT AS RESPONSIBLE PARTIES IN THE SANTA MONICA BAY (SMB) MARINE DEBRIS TOTAL MAXIMUM DAILY LOAD (TMDL)

Dear Dr. Wu:

The County of Ventura and Ventura County Watershed Protection District (herein referred to collectively as the "Ventura County") would like to take this opportunity to provide comments on the Santa Monica Bay (SMB) Beaches Marine Debris TMDL (herein referred to as the "SMB Marine Debris TMDL"), currently being developed by the Los Angeles Regional Water Quality Control Board (Regional Board). As stakeholders involved in many of the approved trash TMDLs in Ventura County Watersheds, including the Ventura River Estuary, Revolon Slough/Beardsley Wash, and Malibu Creek Watershed (MCW), we have actively worked with Regional Board staff to successfully develop and implement TMDLs to address trash impairments under Ventura County's jurisdiction.

During the March 23, 2010, CEQA scoping meeting and other communications with Regional Board Staff, it has come to our attention that Ventura County may be named as a responsible party in this SMB Marine Debris TMDL. We strongly believe this naming to be erroneous and request Regional Board staff not include Ventura County in this SMB Marine Debris TMDL based upon the following rationale:

1. Ventura County will be fully implementing all provisions covering discharger responsibilities for both point sources (PS) and non-point sources (NPS) as required by the MCW Trash TMDL prior to the effective date of the SMB Marine Debris TMDL. As required by the MCW Trash TMDL Basin Plan Amendment, Ventura County, in conjunction with the City of Thousand Oaks, submitted the Trash Monitoring and Reporting Plan (TMRP) for Executive Officer approval on April 30, 2010. The submitted TMRP outlines the strategies and efforts that will be implemented to meet all requirements of the MCW Trash TMDL. The proposed implementation strategies for both PS and NPS responsibilities include structural and non-structural BMPs and a Minimum Frequency Assessment and Collection (MFAC) Program to ensure compliance with the TMDL requirements. We strongly believe that our proposed TMRP/MFAC program will thoroughly address trash and debris sources within Ventura County.

2. Based on recent conversations with Regional Board staff, it is our understanding that responsibility to control discharges of plastic pellets or “nurdles” will be limited to industrial facilities that produce or use pellets in their operations. To better assist Regional Board staff with this effort, we have reviewed business licenses, industrial permits, and industry information available for areas falling under Ventura County’s jurisdiction. At this time, we find no information that indicates that any facility located within Ventura County produces these pellets or has the potential to discharge such pellets as part of its operation.
3. Ventura County is currently in the process of addressing trash and debris problems countywide via implementation of the Ventura County NPDES Permit No. CAS004002 (Permit) requirements. The County will be implementing nonstructural BMPs to meet provisions outlined in the permit, which include countywide measures to address trash in addition to requirements of the currently approved trash TMDLs. Nonstructural BMP’s being developed and/or implemented include the following:
 - A. Ventura County conducts bilingual education and outreach to students and residents in the Ventura County area to promote understanding of environmental issues and how to protect surface water and stormwater quality.
 - B. Ventura County conducts bilingual education and outreach to commercial and industrial businesses to promote a clear understanding of the potential for activities to pollute stormwater and implementation of the Best Management Practices.
 - C. Catch basins are inspected at least once a year and cleaned when filled to 25% or more of the unit’s capacity. During storm season, all drainage facilities are inspected and cleaned as necessary.
 - D. The County’s residential areas with drainage to Medea Creek within MCW are swept twice per month.
 - E. All County owned-and-maintained open channels are cleared, inspected, and cleaned as required at least once per year.
 - F. Proper trash management practices are required for any countywide public events.
 - G. Trash receptacles have been placed at public use areas and along the hiking/walking trails in the urbanized Oak Park area within MCW.
 - H. Ventura County Ordinance (6923 Litter) prohibits the disposal and accumulation of trash in public areas, private driveways, parking areas, streets, alleys, sidewalks, or components of the storm drain or any water course.
 - I. The County’s catch basins are labeled, “Don’t pollute, Flows to Waterways”

We strongly believe that the combined implementation efforts to meet requirements of both the MCW Trash TMDL and the Permit within the Ventura County area will adequately address all possible mechanisms and conveyances of trash and debris within the MCW.

4. Ventura County, similarly to the State of California, is facing an extremely difficult economic climate, and must utilize limited resources in the most efficient and effective manner to protect and restore Ventura County’s water resources. We believe that naming Ventura County as responsible party under the proposed SMB Marine Debris TMDL is

duplicative and unnecessary. We are concerned that if Ventura County is named under the SMB Marine Debris TMDL, the scarce resources will be taken away from what can be applied towards cleanup and pollution source control efforts underway under the MCW Trash TMDL.

Finally, we respectfully request to provide us with the data and information utilized for the rationale linking Ventura County to the impairments of SMB Marine Debris TMDL. We are unclear about the basis for this linkage especially since Ventura County is currently in full compliance with the existing MCW Trash TMDL. If possible, we would greatly appreciate the opportunity to review the documentation prior to the release of the Draft Staff Report and Basin Plan Amendment.

In summary, we feel the inclusion of Ventura County in this SMB Marine Debris TMDL to be erroneous and inappropriate based upon the reasons outlined in this letter, and without a proper, reasonable, and full linkage analysis. Additionally, we request the Regional Board to extensively review all available options and in-effect programs that are fully addressing all possible trash dischargers into the MCW and SMB. We would like to offer our time and resources to further discuss this matter. As always, Ventura County staff is willing to work cooperatively to clarify the items discussed in this letter.

Thank you for your time to consider this matter. If you have any additional questions or require further clarification, please contact Ewelina Mutkowska at (805) 645-1382.

Sincerely,



Gerhardt Hubner
Deputy Director

cc: Norma Camacho, VCWPD Director
Jeff Pratt, PWA Director
Ewelina Mutkowska, Engineer Manager I
Ricardo Moreno, Water Quality Planner III

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