

# State Water Resources Control Board

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## CALIFORNIA SUPREME COURT UPHOLDS WATER BOARDS' WIN IN L.A. TRASH CASE

*City of Arcadia v. State Water Resources Control Board (D043877)*

**SACRAMENTO**-The State and L.A. Water Boards gained a major victory in California Supreme Court Wednesday when the justices refused to hear claims by a coalition of 21 cities that challenged the Water Boards' landmark trash reduction program in the Los Angeles River. The program upheld by the court is the "TMDL (total maximum daily load) program". The TMDL program is a vital cleanup plan designed to ensure that the nations' most polluted waters are cleaned up.

The case the Water Boards won relates to a TMDL to control trash in the Los Angeles River. Each year thousands of tons of trash washes through storm drains, down the L.A. River, into the estuary, and the Pacific Ocean where it blankets the water and beaches. The litter is unsightly and a potential health hazard. The City of Long Beach spends millions of dollars each year to clean up tons of garbage that starts as litter in the gutters of upstream cities.

In 2001 the Los Angeles Water Board adopted a 14-year program to eliminate trash discharges to the L.A. River. The program will require efforts by cities, the County of Los Angeles, and others to reduce trash through enhanced street sweeping, litter law enforcement, nets at the end of storm drains, and trash capture devices.

Twenty-one cities sued the Water Boards to stop the regulation. A San Diego-based Court of Appeal threw out 9 of 10 challenges to the Los Angeles Regional Water Quality Control Board's landmark trash reduction plan, and required the Water Board to improve its environmental analysis under CEQA (the California Environmental Quality Act). The cities appealed the entire case to the California Supreme Court, and asked it to set aside essentially the entire manner in which the water boards operate the TMDL program. The Supreme Court declined to review the case, leaving intact the entire Court of Appeal decision.

"This is a major victory for residents of southern California, for everyone who has ever visited a beach, for the environment and for clean water," said State Water Board Chair Tam Doduc. "This decision reaffirms the water boards' ability to require programs that actually improve water quality. The results will be cleaner streams, rivers, and beaches."

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## 2-2-2 L.A. Trash Case

“We are extremely pleased with the Supreme Court’s decision,” said David Nahai, Chair of the Los Angeles Water Board. “Trash is an enormous problem in our waters,” Nahai said. “Trash kills and maims fish and wildlife and degrades habitat. Moreover, it introduces bacteria and other harmful elements that threaten the health of surfers, swimmers and other individuals who come into contact with the polluted water.” Nahai also said he hoped the decision would encourage the stakeholders to begin to cooperate. “Now that the litigation is over, we’re looking forward to working together with all the stakeholders to address this problem and protect human health and the environment.”

The Court of Appeal had found that the Water Boards considered the costs, scientific, and technical issues associated with the trash reduction program. Among others, the California Supreme Court rejected the cities’ claims that a more-detailed cost-benefit analysis was required before the water boards could order the cities to reduce trash going to the river from their sewers, that the zero trash program is not achievable, and that a scientific “assimilative capacity study” is a prerequisite to determining that garbage harms the aesthetic values of the water body.

Nahai noted that the cities’ litigation in this and other matters has taken significant resources from both the cities and the state. “There are currently two other lawsuits pending by these same cities, which present comprehensive challenges to our basin planning and TMDL programs. I call on the cities to resolve their litigation, and work cooperatively with us to remedy the hundreds of water quality impairments in the Los Angeles Region.” The Los Angeles River is only one of over 679 water bodies that California identified as impaired on the most recent 2002 report. As a result of a lawsuit brought by Heal the Bay and other environmental groups, a federal court had ordered the development of a trash reduction program.

The Court of Appeal decision requires the Los Angeles Water Board to revise the environmental document accompanying the trash reduction program. The analysis will require the Los Angeles Water Board to analyze potential issues with air and soil based on how the cities and county anticipate complying with the trash reduction program. “It is a technical fix that the board can readily address and that we were already prepared to fix following the appellate court’s decision,” said Jonathan Bishop, executive officer for the Los Angeles Water Board. “The Supreme Court’s decision to reject the cities’ claims is a big win, however, because it upholds our core authority to require not just these important and necessary trash reductions, but other programs to address the myriad pollutants impairing our region’s waters.”

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