

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. R18-006

June 14, 2018

Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Load for Trash in the Malibu Creek Watershed

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board), finds that:

1. On May 1, 2008, the Los Angeles Water Board adopted, by Resolution No. R08-007, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) establishing a TMDL for trash in the Malibu Creek Watershed (hereinafter "2008 Malibu Creek Watershed Trash TMDL"). The 2008 Malibu Creek Watershed Trash TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on March 17, 2009, the Office of Administrative Law (OAL) on June 16, 2009, and the United States Environmental Protection Agency (USEPA) on June 26, 2009.
2. The Malibu Creek Watershed is located within both Ventura County and Los Angeles County and has a drainage area of 109 square miles. Tributaries of Malibu Creek include Lindero Canyon Creek, Medea Creek, Palo Comado Canyon Creek, Cheeseboro Canyon Creek, Las Virgenes Creek, Hidden Valley Creek, Potrero Valley Creek, Triunfo Creek, and Cold Creek. The dominant land use in the Malibu Creek Watershed is open space, accounting for approximately 82.7% of the watershed. Other land uses include agriculture, recreation, residential, commercial, and industrial land uses. Malibu Creek (from Malibou Lake to Malibu Lagoon), Medea Creek, Lindero Creek, Lake Lindero, and Las Virgenes Creek are identified on the 1998, 2002, and 2006 Clean Water Act 303(d) list of impaired water bodies as impaired due to trash. The 2008 Malibu Creek Watershed Trash TMDL addressed impairments of water quality caused by trash in the waterbodies of the Malibu Creek Watershed.
3. The 2008 Malibu Creek Watershed Trash TMDL established a numeric target of zero trash based on the narrative water quality objectives for "Floating Material" and "Solid, Suspended, or Settleable Materials" specified in the Basin Plan. The TMDL assigned waste load allocations (WLAs) to discharges from the municipal separate storm sewer system (MS4) within the watershed. The TMDL allowed MS4 permittees to comply with WLAs through several approaches. If MS4 permittees chose to comply with WLAs via the full capture system approach, then they were required to install full capture devices addressing all storm drains that capture runoff from their jurisdictions over an eight-year period. The TMDL assigned load allocations (LAs) to nonpoint source discharges, which were to be complied with by implementing a Minimum Frequency of Assessment and Collection/Best Management Practice (MFAC/BMP) Program. The MFAC/BMP Program was established at an interval that prevents trash

from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections.

4. The Los Angeles Water Board's purpose in establishing the 2008 Malibu Creek Watershed Trash TMDL was to protect the aquatic life, wildlife, recreational, and fishing beneficial uses of the waterbodies in the Malibu Creek Watershed.
5. Trash in waterbodies causes significant water quality problems and impairs beneficial uses. Wildlife living in rivers and in riparian areas can be harmed by ingesting or becoming entangled in floating trash. Buoyant (floatable) trash is easily transported through rivers and creeks and into the marine environment.
6. The implementation schedule for the MFAC/BMP program in the 2008 Malibu Creek Watershed Trash TMDL includes a scheduled reconsideration. Specifically, according to Basin Plan Table 7-31.2b, the Los Angeles Water Board will review and reconsider the final WLAs five years from the effective date of the TMDL.
7. On April 7, 2015, the State Water Board adopted Resolution 2015-0019, which approved an "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash" and "Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries" (Trash Amendments). The State Water Board developed the Trash Amendments to provide statewide consistency for the regional water boards' regulatory approaches to reduce trash and protect aquatic life and public health beneficial uses in state waters across California not previously addressed by trash TMDLs, while focusing resources on high-trash generating areas. The Trash Amendments became effective on December 2, 2015 and apply to all surface waters of the State, with the exception of those waters within the jurisdiction of the Los Angeles Water Board where trash or debris TMDLs were in effect prior to the effective date of the Trash Amendments. The Trash Amendments directed the Los Angeles Water Board to convene a public meeting within a year of the effective date of the Trash Amendments to reconsider the scope of its trash TMDLs, with the exception of those TMDLs for the Los Angeles River and Ballona Creek watersheds, to particularly consider an approach that would focus MS4 permittees' trash-control efforts on high-trash generation areas within their jurisdictions.
8. On November 28, 2016, the Los Angeles Water Board held a public meeting to reconsider the scope of certain Board-adopted trash TMDLs, including the 2008 Malibu Creek Watershed Trash TMDL, to particularly consult with the public in considering an approach that would focus MS4 permittees trash control efforts in high trash generation areas within their jurisdictions.
9. This reconsideration is not a general reconsideration of each and every element of the 2008 Malibu Creek Watershed Trash TMDL; the fundamental technical elements including the Numeric Targets, Loading Capacity, WLAs and Load Allocations, Margin of Safety, and Critical Condition and Seasonal Variation have not been significantly changed. Neither are there significant changes proposed to the

overarching compliance options identified in the TMDL, namely the use of full capture systems, partial capture devices, and institutional controls. The changes to the TMDL align with the Trash Amendments, while ensuring protection of the beneficial uses of the waterbodies in the Malibu Creek Watershed.

10. Los Angeles Water Board staff has prepared a detailed technical document entitled "Reconsideration of the Revolon Slough/Beardsley Wash Trash TMDL and Malibu Creek Watershed Trash TMDL" that analyzes and describes the specific necessity and rationale supporting the revision of the 2008 Malibu Creek Watershed Trash TMDL. This document is an integral part of this Los Angeles Water Board action and was reviewed, considered, and accepted by the Los Angeles Water Board before acting.
11. On June 14, 2018, prior to the Los Angeles Water Board's action on this resolution, a public hearing was conducted on the revisions to the TMDL. Notice of the hearing for the revision of the TMDL was published in accordance with the requirements of Water Code section 13244. This notice was published in the Los Angeles Times and Ventura County Star on April 9, 2018.
12. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. A draft of the revisions to the Malibu Creek Watershed Trash TMDL and other supporting documents was released for public comment on April 10, 2018; a Notice of Hearing and Opportunity to Comment was published and circulated 45 days preceding Los Angeles Water Board action; Los Angeles Water Board staff responded to oral and written comments received from the public; and the Los Angeles Water Board held a public hearing on June 14, 2018 to consider adoption of the revised TMDL.
13. In amending the Basin Plan, the Los Angeles Water Board considered sections 13240 and 13242 of the California Water Code.
14. Neither the TMDL nor the targets or other components are water quality objectives, and thus their establishment or revision does not implicate California Water Code section 13241.
15. This amendment is consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16), and the federal Antidegradation Policy (40 CFR § 131.12), in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards. Considering the record as a whole, this Basin Plan amendment will result in no effect, either individually or cumulatively, on wildlife resources.
16. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) requirements for preparing

environmental documents. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782.)

17. The prior establishment of the 2008 Malibu Creek Watershed Trash TMDL serves as the baseline for CEQA analysis of the current project. The Los Angeles Water Board previously prepared "substitute environmental documentation" for the establishment of the 2008 Malibu Creek Watershed Trash TMDL (Resolution No. R08-007) pursuant to Title 23 California Code of Regulations, sections 3775 et seq., and Public Resources Code section 21159. That documentation contained the required environmental documentation under the State Water Board's CEQA regulations. (23 Cal. Code Regs. §§ 3777, 3779.5.). In preparing the previous substitute environmental documentation, the Los Angeles Water Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review. The previous substitute environmental documentation contained significant environmental analysis and numerous findings related to the reasonably foreseeable methods of compliance, the impacts of the methods of compliance, feasible mitigation measures, and alternative means of compliance. Those documents were filed with the Resources Agency on August 11, 2009.
18. The project in this action is a revision of the 2008 Malibu Creek Watershed Trash TMDL program of implementation for the WLAs assigned to MS4 discharges to align the full capture system compliance approach with the State Water Board's Trash Amendments. For MS4 permittees employing the full capture system approach, the 2007 TMDL required that all storm drains are addressed with full capture systems, while the Trash Amendments require MS4 permittees to address storm drains in high trash generation, or priority land use, areas only.
19. These TMDL revisions do not alter the environmental analysis that was previously prepared for the establishment of the TMDL because the TMDL revisions will not result in different implementation actions than those previously analyzed, or different effects upon the environment. Moreover, no additional reasonably foreseeable methods of compliance warrant environmental analysis pursuant to Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187. As such, these TMDL revisions are consistent with the prior CEQA documentation.
20. The previous substitute environmental documentation for the prior establishment of the TMDL considered the potential impacts due to the installation and maintenance of full capture systems and other structural and non-structural trash control measures. Because the current project is limited to the revision of the TMDL program of implementation for WLAs assigned to MS4 discharges, and does not require any additional trash control measures, all compliance options are established within the baseline and no additional environmental analysis of the potential impacts due to compliance with the TMDL are required. Since MS4 permittees are now required to only address storm drains in high trash generation, or priority land use, areas only, the current project amounts to a reduction in the number of full capture systems to be installed in the

Malibu Creek Watershed. A reduction in the number of full capture systems could allow for increased levels of trash to be discharged from non-priority land uses. However, the Los Angeles Water Board has determined that revising the TMDL to require full capture systems in only the priority land use areas, consistent with the Trash Amendments, will fully address all of the trash discharged from the MS4 in the watershed as long as an effective MFAC/BMP program remains in place in the impaired waters downstream. Therefore, the TMDL revisions in this action do not involve new significant environmental effects, a substantial increase in the severity of previously identified significant effects, or mitigation measures or alternatives that are considerably different from those analyzed in the previous substitute environmental documentation.

21. The Los Angeles Water Board has prepared an Addendum to its previous substitute environmental documentation pursuant to California Code of Regulations, title 14, section 15164 to take into account the revisions to the TMDL. The Los Angeles Water Board has considered the Addendum with its previous substitute environmental documentation prior to taking action on this resolution.
22. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). Federal regulations require that TMDLs be incorporated into the state's water quality management plan. The Los Angeles Water Board's Basin Plan is the water quality management plan for the Los Angeles Region along with statewide water quality management plans. Amendments to the Basin Plan are the mechanism by which the Los Angeles Water Board takes quasi-legislative actions. Moreover, TMDLs are a program of implementation for existing water quality objectives, and are, therefore, appropriately a component of the Basin Plan under Water Code section 13242. The necessity of revising the Malibu Creek Watershed Trash TMDL is established in the Basin Plan Tables 7-31.1 through 7-31.2b, and the TMDL supporting documents.
23. The Basin Plan amendment revising the 2008 Malibu Creek Watershed Trash TMDL must be submitted for review and approval by the State Water Board and OAL. Portions of the Basin Plan amendment that revise technical elements of TMDLs, if any, are also subject to review and approval by the USEPA. The Basin Plan amendment will become effective upon approval by OAL and USEPA, if required. Once effective, a Notice of Decision will be filed with the California Natural Resources Agency.
24. Occasionally during its approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determine that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency. Under such circumstances, the Executive Officer should be authorized to make such changes, provided she informs the Los Angeles Water Board of any such changes.

THEREFORE, be it resolved that pursuant to sections 13240 and 13242 of the Water Code, the Los Angeles Water Board hereby amends the Basin Plan as follows:

1. Pursuant to sections 13240 and 13242 of the California Water Code, the Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to Chapter 7 of the Basin Plan, as set forth in Attachment A hereto, to revise the Malibu Creek Watershed Trash TMDL.
2. The Los Angeles Water Board hereby approves and adopts the CEQA substitute environmental documentation with the Addendum, including all findings contained therein, which was prepared in accordance with Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and in accordance with section 3777 of title 23. The Los Angeles Water Board directs the Executive Officer to sign the Addendum.
3. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
4. The Los Angeles Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward the approved amendment and record to OAL and to the USEPA, if required.
5. If during its approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determine that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Los Angeles Water Board of any such changes.
6. The Executive Officer is authorized to request a "No Effect Determination" from the California Department of Fish and Wildlife, and/or transmit payment of the applicable fee as may be required to the California Department of Fish and Wildlife.

I, Deborah J. Smith, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on June 14, 2018.



Deborah J. Smith
Executive Officer