



September 30, 2015

Public Comment
LA River & Ballona Creek Trash TMDLs
Deadline: 9/30/15 by 12:00 noon

Chair Felicia Marcus and Board Members
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Sent via electronic mail to: commentletters@waterboards.ca.gov

Re: Comment Letter – Los Angeles River Watershed Trash TMDLs and Ballona Creek Trash TMDLs

Dear Chair Marcus and State Water Board Members:

On behalf of Heal the Bay, Los Angeles Waterkeeper, and Natural Resources Defense Council (collectively, Environmental Groups), we submit the following comments to the State Water Resources Control Board (“State Board”) on the proposed amendments to the Los Angeles Region Basin Plan to Revise Total Maximum Daily Load (“TMDL”) for Trash in the Ballona Creek Watershed and TMDL for Trash in the Los Angeles River Watershed (“Proposed Amendments”). Heal the Bay is an environmental organization with over 15,000 members dedicated to making Southern California coastal waters and watersheds safe, healthy, and clean for people and aquatic life. Los Angeles Waterkeeper has been working to protect the Santa Monica Bay, San Pedro Bay and inland waterways of Los Angeles County through volunteer-based water quality monitoring, advocacy, and enforcement. NRDC is a non-profit environment organization, with approximately 72,000 members in California, dedicated to protecting the quality of Los Angeles County’s aquatic resources as well as the health of beachgoers and other users. We appreciate this opportunity to provide comments on the Proposed Amendments.

Environmental Groups have advocated for the development and supported the adoption of trash TMDLs in the Los Angeles region and statewide for over a decade. We served as a member of the Public Advisory Group for the State Board Amendment to the Water Quality Control Plan for Ocean Waters of California for trash, known as “the Trash Amendments.” We were also major proponents of the original Los Angeles River Watershed and Ballona Creek trash TMDLs adopted by the Los Angeles Regional Water Quality Control Board (“Regional Board”) on September 19, 2001, as the provisions of the TMDL paved the way for water quality standards attainment. Of particular note, the original trash TMDL for these watersheds stood strong against many legal challenges. As final compliance deadlines approach in 2015 and 2016 for Ballona Creek and the Los Angeles River Watersheds, respectively, it is critical that responsible entities continue to make progress toward and achieve TMDL compliance.

In general, we believe the Proposed Amendments revision will assist responsible entities reach water quality standards in the future. However, we also believe some aspects of the Proposed Amendments need further refinement, as outlined in our comments below. Our comments below address the Proposed Amendments for both TMDLs.



A. Trash impairs the beneficial uses of the Los Angeles River and Ballona Creek

Trash significantly impairs beneficial uses of the Los Angeles River watershed and Ballona Creek watershed. Urban runoff is the number one source of coastal pollution, and a continuing threat to marine life and human health in Los Angeles County. It carries trash and other pollutants through stormdrains into local rivers and creeks, such as the Los Angeles River and Ballona Creek, and eventually to the ocean - unfiltered and untreated. Heal the Bay has routinely documented excessive trash in the Los Angeles River watershed during annual Coastal Cleanup Day and other community clean-up events. Compton Creek, a tributary of the Los Angeles River, is arguably the most trash impaired waterbody in the region – we have consistently collected and removed large amounts of from Compton Creek through cleanup efforts.

Los Angeles River and Ballona Creek support, or should support, a host of beneficial uses. Today, at various reaches along these waterways, people bike, jog, walk, horseback ride, bird-watch, photograph, picnic, swim, fish, and collect mussels off of the rocks. There are also numerous species of fish and wildlife that spawn, migrate, and live in these waters. Trash has impaired the many of the beneficial uses of these waterways, including: REC1; REC2; GWR; WARM; MAR; WILD; RARE; potential MUN, IND., MIGR, SPWN, and SHELL.

B. Monitoring requirements should be strengthened to enhance frequency

The Proposed Amendments include the addition of three new monitoring requirements to track and assess trash in waterways: receiving water monitoring, plastic pellet monitoring, and Minimum Frequency of Assessment and Collection (MFAC) Program monitoring. We support the inclusion of these requirements and believe they are necessary to accurately assess trash accumulation volumes over time. Given the lack of clear compliance demonstrations, as documented by the Regional Board in Table 1 and 2 of the Staff Report¹, requiring additional trash monitoring is necessary to ensure implemented trash controls are working effectively and to identify if additional management approaches are necessary to reduce trash pollution in waterways. Further, these new requirements will aid in the collection of trash data and create comparable monitoring metrics across multiple jurisdictions, which can assist the Regional Board in compliance determination and assessment of trash impairments along waterways in the long-term.

a. Heavily used areas, like open space and parks, should be more frequently monitored

We are pleased to see that the non-point source monitoring requirements include both receiving waters and terrestrial areas. We appreciate the Regional Board's response to our comment recommending additional specificity be added the collection frequency for non-point sources; however we believe this concern was not addressed in their action on the Proposed Amendments, and that the monitoring frequency required is insufficient. The Proposed Amendments require trash in open space and parks

¹ Compliance Summary for Los Angeles River Trash TMDL 2013-2014 Reporting Year shows 12/44 responsible entities not in compliance and 17/44 responsible entities "undetermined". Compliance Summary for Ballona Creek Trash TMDL 2013-2014 shows 3/7 responsible entities not in compliance and 3/7 responsible entities "undetermined".



managed by responsible jurisdictions and agencies to be removed completely at each assessment and collection event specified in their Trash Monitoring and Reporting Plan (“TMRP”) within 72 hours after critical conditions, and immediately after special events when no safety hazards exist. In urban environments with limited open space and parks, recreational use of these areas is consistently heavy, not just limited to special events.

The Regional Board responded to our initial comment by stating that the TMRP allows for flexibility in monitoring. However, we feel this response is unsatisfactory, as there is no assurance that responsible jurisdictions will conduct additional monitoring in the way the Proposed Amendments are written. We urge the State Water Board to strengthen the nonpoint source monitoring and trash collection requirements to at least monthly for heavily used public areas, such as parks and recreational facilities, and quarterly for other open space areas.

b. Receiving water monitoring sites and frequency need more specificity

The Proposed Amendments require responsible entities to submit TMRPs outlining receiving water monitoring sites and at least two additional alternative monitoring locations. In addition, TMRPs require responsible entities to identify at least one monitoring station per reach and tributary. Although we support the inclusion of receiving water monitoring requirements in the Proposed Amendments, we believe sampling one site per reach and tributary will not accurately assess trash accumulation in receiving waters. Trash accumulation rates can vary considerably across reaches and tributaries because of differences in channel construction; trapezoidal channels differ from box channels, soft bottom differ from hard bottom, etc. Because of these differences, we request that the Proposed Amendments be modified to include language that requires responsible entities to monitor more than one monitoring site in reaches and tributaries that have variable channel configurations. For example, reaches and tributaries that have trapezoidal channels consisting of both hard and soft bottom should at least have two different receiving water monitoring sites, as trash accumulates in greater amounts in waterways with soft bottoms that support vegetation.

We raised this concern to the Regional Board, which was met by the response that they will focus on best management practices (“BMPs”) for compliance. We believe that our recommendation should be reconsidered by the State Board, as the Proposed Amendments also allow for compliance determined through a combination of full capture devices, institutional controls, and partial capture devices. For both institutional controls and partial capture devices, monitoring is essential to gauge their effectiveness at advancing a zero trash goal. Therefore, it is imperative that monitoring requirements thoroughly capture the potential differences in trash within receiving waters with variable substrate.

C. New alternative compliance methods for full and partial capture devices should be approached with caution

The Proposed Amendments include three new alternative compliance approaches for full capture and partial capture devices. The numeric target for trash in both the Los Angeles River Watershed and Ballona Creek Watershed Trash TMDLs is zero. Both TMDLs were developed with the notion that final compliance would be attained when zero trash is discharged into waterways. Environmental Groups understand the



complexity of managing the region's trash problem, and we are aware of the challenges presented with implementation of each trash TMDL. We commend the efforts responsible parties have put forth up to this point to comply with the Los Angeles River Watershed and Ballona Creek Watershed Trash TMDLs. It is necessary that the elements within TMDLs (both the zero trash requirement and compliance metrics) remain strong to effectively curb our region's trash problems.

Los Angeles is one of the most heavily developed and populated counties in the nation. Trash pollution is chronic and the Regional Board rightfully adopted Trash TMDLs for Los Angeles River and Ballona Creek in 2001 and 2007. Both TMDLs are approaching their final compliance deadlines. Adding alternative compliance determination methodology at the end of TMDL implementation schedules is a slippery slope. If this approach is used regularly, it has the potential to seriously undermine already adopted TMDLs. Further, the precedent setting nature of changing final compliance metrics for TMDLs that have been implemented for almost a decade is concerning, especially when new alternative compliance methods may be less stringent than what was proposed in the original TMDLs. Because of this, we urge the State Board to approach the new alternative compliance methods for full and partial capture devices with caution.

The original Ballona Creek Watershed and Los Angeles River Watershed Trash TMDLs included a technological based compliance option for responsible entities. Municipalities that chose to retrofit all catch basins with full capture devices, following TMDL implementation schedules, were deemed to be in compliance with the TMDL. Pursuing this approach is resource intensive, encountering not only financial, but also engineering constraints. Yet, many cities have already achieve compliance. As identified in the staff report and Proposed Amendments, in some cases it was technically infeasible to install full capture devices at some catch basins because of physical constraints associated with channel configuration.

To address trash in areas that are not managed by full capture systems because of technical infeasibility, the Regional Board proposes alternative compliance criteria (below) in the Proposed Amendments.

- 1) 98% of all catch basins within the agency's jurisdictional land area in the watershed are retrofitted with FCS (or, alternatively, 98% of the jurisdiction's drainage area is addressed by FCS) and at least 97% of the catch basins (or, alternatively, drainage area) within the agency's jurisdiction in the subwatershed (the smaller of the HUC-12 equivalent area or tributary subwatershed) are retrofitted with FCS.

- 2) The agency submits to the Regional Board a report for Executive Officer concurrence, detailing the technical infeasibility of FCS retrofits in the remaining catch basins and evaluating the feasibility of partial capture devices, and the potential to install FCS or partial capture devices along the storm drain or at the MS4 outfall downgradient from the catch basin.

- 3) The agency submits to the Regional Board a report for Executive Officer approval, detailing the partial capture devices and/or institutional controls that are currently and will continue to be implemented in the affected subwatershed(s), including an assessment of the effectiveness of the partial capture devices and/or institutional controls using existing data and studies representative of the subwatershed or jurisdictional area. If, based on Regional Board evaluation, existing data



and studies are determined non-representative, responsible jurisdictions may also be required to conduct a special study of institutional controls and partial capture devices in the particular subwatershed(s) where the non-retrofitted catch basins are located.²

We appreciate the Regional Board’s carefulness of working to uphold the zero trash requirement of these TMDLs and its prioritization of full capture devices, yet, we have concerns about allowing responsible entities to use partial capture for TMDL compliance. The intention of the partial capture approach is to reach baseline loading reductions identified in the original TMDLs by a specific date. Therefore, meeting baseline load reductions is critical for compliance. Responsible entities should not be given the opportunity to request that 97% or 98% of baseline load reduction constitute full compliance with final waste load allocations. Between 99%-100% reduction in baseline trash loading should be the only criteria for TMDL compliance. Given the fact that responsible entities that pursued a partial capture compliance approach were not required to retrofit all catch basins in jurisdictional boundaries, and that opportunities still exist to install partial or full catch devices at non-retrofitted catch basins, we believe that more can be through BMPs to meet baseline load reductions.

Further, we are concerned that the Proposed Amendments alter final water quality based compliance approaches 1-2 years prior to final compliance deadlines. Additionally, the Trash Policy adopted by the State Water Resources Control Board in April 2015 requires that Track 2 (which allows for a combination of BMPs and treatment controls to meet full capture system equivalency) specifically demonstrate equivalency with full capture systems. Allowing for responsible parties to decrease their trash load reduction requirements to demonstrate compliance is in direct contravention with the Track 2 approach, as it does not represent equivalency, but instead represents trash capture that is less-than Track 1 equivalent. It is important that any amendments to these TMDLs are consistent with the statewide Trash Policy. Moreover, altering final compliance criteria for a sunseting TMDL sets a disturbing precedent. Will this be an approach used for other TMDLs, such as bacteria or metals when responsible agencies cannot attain final waste load allocations? Our preference is that the alternative compliance approach for partial capture devices be removed from the Proposed Amendment.

We greatly appreciate the opportunity to comment on this important matter. Trash pollution is a critical issue for the Los Angeles Region, and threatens several beneficial uses in both the Ballona Creek and Los Angeles River Watersheds. We urge the State Board to make the aforementioned adjustments to the Proposed Amendment to ensure that it is consistent with the Trash Policy and is effective in meeting the zero trash requirement of the Ballona Creek and Los Angeles River Watershed TMDLs. Please feel free to contact us if you have any questions.

² Proposed Amendment to Los Angeles River Watershed Trash TMDL at 5; Proposed Amendment to Ballona Creek Watershed Trash TMDL at 4.



Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Abramson Sikich".

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