

Metals TMDL History

- 1998 303(d) list: Waterbodies listed
- March 23, 1999: Consent decree entered
- June 2, 2005: RB adopted LA River Metals TMDL
- July 7, 2005: RB adopted Ballona Creek Metals TMDL
- January 11, 2006: TMDLs became effective
- February 16, 2006: Eight cities filed petition for writ of mandate, challenging both TMDLs on CEQA and other grounds

Writ of Mandate

- April-May 2007: Court ruled “alternatives analysis” was required
- June 22, 2007: Regional Board circulated draft analysis
- July 13, 2007: Judgment/writ of mandate entered—limited to program level “alternatives analysis”
- 14 CCR section 15126.6 requires analysis of:
 - Feasible alternatives
 - Achieve the project’s basic purposes
 - Result in substantially less environmental impacts than the project as proposed.

Alternatives Analysis - CEQA

- 14 CCR section 15126.6 requires:
 - Alternatives Analysis of:
 - Feasible alternatives
 - Achieve the project's basic purposes
 - Result in substantially less environmental impacts than the project as proposed.
 - Reasonable range of alternatives
 - Need not be exhaustive

Alternatives Analysis - CEQA

- Project Purposes More Clearly Articulated
 - Adopt regulation to restore water quality standards in the relevant waterbodies
 - Comply with CWA section 303(d) and the federal consent decree to maintain state control over water quality in the region
- Alternatives Analysis
 - Considered all TMDL alternatives that had to that point ever been suggested
 - Alternatives to program as a whole

Current Status

- September 6, 2007:
 - RB approved alternatives analysis'
 - RB readopted the TMDLs in their original form
- September 28, 2007: Cities appealed
- October 19, 2007: Water Boards limited cross appeal
 - Only challenging order to vacate the original TMDLs during compliance
- October 30, 2007: Boards filed first "Return" to writ
- June 24, 2008: Opening appellate briefs to be filed

Water Boards' Cross Appeal

- Court ordered Boards to vacate original TMDLs
- Cities insisted original TMDLs must be vacated
- Boards asked for discretion to decide whether the alternatives analysis would have changed the TMDLs

Water Boards' Cross Appeal

■ Why important?

- Eight facilities' NPDES permits have metals TMDL-based limits
 - Limits unenforceable; all must be revised
- Relief sought requires diligence in correcting CEQA deficiencies

■ Boeing SSFL

■ Los Angeles Glendale

■ Los Angeles Tillman

■ Burbank POTW

■ Lubricating Specialties

■ Los Angeles Turf Club-Santa Anita Park

■ 750 Garland LLC-Former Holiday Inns

■ Jamison-Former Adams Plaza 2

Metals TMDLs Overview

- Similar approach for all Metals TMDLs in Region
- Numeric Targets
 - CTR: Adjusted for hardness
- Waste Load Allocations
 - Mass-based: POTWs and Storm Water Permits
 - Concentration-based: Minor and General Non-storm Water NPDES Permits and POTWs
- Load Allocations
 - Mass-based: Direct Air Deposition and Open Space

Alternatives Analysis - CEQA

- Alternative 1: TMDLs as proposed
 - State-developed TMDLs
 - Comply with consent decree
 - Contain implementation plans
 - TMDLs for all impaired reaches
 - TMDLs for all impaired beneficial uses, including those designated as “potential” uses
 - Feasible
 - Achieves project purposes

Alternatives Analysis - CEQA

- Alternative 2: TMDL for reaches on 1998/2002 303(d) List, but not the impaired unlisted reaches
- Alternative 3: TMDL for reaches with “probable future” uses, but not the “potential” beneficial uses
- Alternative 4: Memorandum of Understanding in lieu of TMDL or TMDL implementation
- Alternative 5: USEPA-established TMDL
- Alternative 6: No TMDL alternative