

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

**RESOLUTION NO. 2004-XXX  
September 2, 2004**

**Amendment to the *Water Quality Control Plan for the Los Angeles Region* to  
Incorporate a Total Maximum Daily Load for Metals at Ballona Creek and Estuary.**

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

1. The Federal Clean Water Act (CWA) requires the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) to develop water quality objectives, which are sufficient to protect beneficial uses for each water body found within its region.
2. A consent decree between the U.S. Environmental Protection Agency (USEPA), Heal the Bay, Inc. and BayKeeper, Inc. was approved on March 22, 1999. This court order directs the USEPA to complete Total Maximum Daily Loads (TMDLs) for all impaired waters within 13 years. A schedule was established in the consent decree for the completion of the first 29 TMDLs within 7 years, including completion of a TMDL to reduce metals at Ballona Creek and Ballona Creek Estuary by March 22, 2004. The remaining TMDLs will be scheduled by Regional Board staff within the 13-year period.
3. The elements of a TMDL are described in 40 CFR 130.2 and 130.7 and section 303(d) of the CWA, as well as in USEPA guidance documents (Report No. EPA/440/4-91/001). A TMDL is defined as the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources and natural background (40 CFR 130.2). Regulations further stipulate that TMDLs must be set at levels necessary to attain and maintain the applicable narrative and numeric water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7(c)(1)). The regulations in 40 CFR 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters.
4. The numeric targets in this TMDL are not water quality objectives and do not create new bases for enforcement against dischargers apart from the water quality objectives they translate. The targets merely establish the bases through which load allocations (LAs) and waste load allocations (WLAs) are calculated. WLAs are only enforced for a discharger's own discharges, and then only in the context of its National Pollutant Discharge Elimination System (NPDES) permit, which must be consistent with the assumptions and requirements of the WLA. The Regional Board will develop permit requirements through a subsequent permit action that will allow all interested persons, including but not limited to municipal storm water dischargers, to provide comments on how the WLA will be translated into permit requirements.
5. Upon establishment of TMDLs by the State or USEPA, the State is required to incorporate the TMDLs along with appropriate implementation measures into the State Water Quality Management Plan (40 CFR 130.6(c)(1), 130.7). This Water Quality Control Plan for the Los

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Angeles Region (Basin Plan), and applicable statewide plans, serves as the State Water Quality Management Plans governing the watersheds under the jurisdiction of the Regional Board.

6. Ballona Creek flows as an open channel for just under 10 miles from Los Angeles (South of Hancock Park) through Culver City, reaching the Pacific Ocean at Playa del Rey. Ballona Creek and its tributaries drain a watershed with an area of approximately 128 square miles. The Ballona Creek watershed is comprised of the Cities of Beverly Hills and West Hollywood, and parts of the Cities of Culver City, Inglewood, Los Angeles, Santa Monica, and unincorporated areas of Los Angeles County. The proposed TMDL addresses impairments of water quality caused by metals at Ballona Creek, Ballona Creek Estuary and Sepulveda Canyon Channel.
7. The Regional Board's goal in establishing the Ballona Creek and Estuary Metals TMDL is to determine and set forth measures needed to prevent and remedy impairment of water quality due to metals in Ballona Creek, Ballona Creek Estuary, and Sepulveda Canyon Channel.
8. Regional Board staff have prepared a detailed technical document that analyzes and describes the specific necessity and rationale for the development of this TMDL. The technical document entitled "Ballona Creek and Estuary Metals TMDL" is an integral part of this Regional Board action and was reviewed, considered, and accepted by the Regional Board before acting. Further, the technical document provides the detailed factual basis and analysis supporting the problem statement, numeric targets (interpretation of the narrative and numeric water quality objectives, used to calculate the pollutant allocations), source analysis, linkage analysis, waste load allocations (for point sources), load allocation (for nonpoint sources), margin of safety, and seasonal variations and critical conditions of this TMDL.
9. On September 2, 2004, prior to the Board's action on this resolution, a public hearing was conducted on the Ballona Creek and Estuary Metals TMDL. Notice of the hearing for the Ballona Creek and Estuary Metals TMDL was published in accordance with the requirements of Water Code Section 13244. This notice was published in the Los Angeles Times on July 12, 2004.
10. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. A draft of the Ballona Creek and Estuary Metals TMDL was released for public comment on July 12, 2004; a Notice of Hearing and Notice of Filing were published and circulated 45 days preceding Board action; Regional Board staff responded to oral and written comments received from the public; and the Regional Board held a public hearing on September 2, 2004 to consider adoption of the TMDL.
11. In amending the Basin Plan, the Regional Board considered the factors set forth in Sections 13240 and 13242 of the California Water Code.
12. The amendment is consistent with the State Antidegradation Policy (State Board Resolution No. 68-16), in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 CFR 131.12).

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13. The basin planning process has been certified as functionally equivalent to the California Environmental Quality Act requirements for preparing environmental documents (Public Resources Code, Section 21000 et seq.) and as such, the required environmental documentation and CEQA environmental checklist have been prepared. A CEQA Scoping hearing was conducted on June 12, 2003 at the Los Angeles Regional Water Quality Control Board, 320 W. 4th Street, Los Angeles, CA 90013. A notice of the CEQA Scoping hearing was sent to interested parties including cities and/or counties with jurisdiction in or bordering the Ballona Creek watershed.
14. The proposed amendment results in no potential for adverse effect (de minimis finding), either individually or cumulatively, on wildlife.
15. The regulatory action meets the “Necessity” standard of the Administrative Procedures Act, Government Code, Section 11353, Subdivision (b).
16. The Basin Plan amendment incorporating a TMDL for metals at Ballona Creek and Ballona Creek Estuary must be submitted for review and approval by the State Water Resources Control Board (State Board), the State Office of Administrative Law (OAL), and the USEPA. The Basin Plan amendment will become effective upon approval by USEPA. A Notice of Decision will be filed.

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

1. Pursuant to Sections 13240 and 13242 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendments to Chapter 7 of the Water Quality Control Plan for the Los Angeles Region, as set forth in Attachment A hereto, to incorporate the elements of the Ballona Creek and Estuary Metals TMDL.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirements of section 13245 of the California Water Code.
3. The Regional Board requests that the State Board approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA.
4. If during its approval process Regional Board staff, the State Board or OAL determines 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 Board of any such changes.
5. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

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I, Jonathon Bishop, Interim 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 September X, 2004.

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Jonathan Bishop  
Interim Executive Officer

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