

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

**RESOLUTION NO. 07-012**

**August 9, 2007**

**Amendment to the Water Quality Control Plan for the Los Angeles Region  
to Incorporate a Total Maximum Daily Load for Trash in the Los Angeles River  
Watershed**

**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 establish water quality standards for each water body within its region. Water quality standards include beneficial uses, water quality objectives that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. Water bodies that do not meet water quality standards are considered impaired.
2. CWA section 303(d)(1) requires each state to identify the waters within its boundaries that do not meet water quality standards. Those waters are placed on the state's "303(d) List" or "Impaired Waters List". For each listed water, the state is required to establish the Total Maximum Daily Load (TMDL) of each pollutant impairing the water quality standards in that waterbody. Both the identification of impaired waters and TMDLs established for those water must be submitted to U.S. EPA for approval pursuant to CWA section 303(d)(2). For all waters that are not identified as impaired, the states are nevertheless required to create TMDLs pursuant to CWA section 303(d)(3).
3. A consent decree between the United States Environmental Protection Agency, Heal the Bay, Inc. and BayKeeper, Inc. was approved on March 22, 1999, which resolved litigation between those parties relating the pace of TMDL development. The court order directs the U.S. EPA to ensure that TMDLs for all 1998-listed impaired waters be established within 13 years of the decree. A schedule was established in the consent decree for the completion of TMDLs, including completion of a TMDL to reduce trash in water bodies of the Los Angeles River Watershed.
4. The elements of a TMDL are described in 40 CFR 130.2 and 130.7 and section 303(d)(1)(C) and (D) of the CWA, as well as in U.S. EPA 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). 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)). 40 CFR 130.7 also dictates that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters. TMDLs typically include one or more numeric "targets", i.e.,

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numerical translations of the existing water quality standards, which represent attainment of those standards, contemplating the TMDL elements described above.

5. Neither TMDLs nor their targets or other components are water quality objectives, and thus their establishment does not implicate Water Code section 13241. Rather, under California Law, TMDLs are programs to implement existing standards (including objectives), and are thus established pursuant to Water Code section 13242. Moreover, they do not create new bases for direct enforcement against dischargers apart from the existing water quality standards 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 the discharger's National Pollutant Discharge Elimination System (NPDES) permit (or other permit, waiver, or prohibition), which must contain effluent limits consistent with the assumptions and requirements of the WLAs (40 C.F.R. 122.44(d)(vii)(B)). The Regional Board will develop permit requirements through subsequent permit actions that will allow all interested persons, including but not limited to Municipal Separate Stormwater System permittees within the Los Angeles River Watershed, to provide comments on how the WLAs and/or LAs should be translated into enforceable requirements.
6. Upon establishment of TMDLs by the State or USEPA, the State is required to incorporate the TMDLs into the State Water Quality Management Plan (40 CFR 130.6(c)(1), 130.7). The Water Quality Control Plan for the Los Angeles Region (Basin Plan), and applicable statewide plans, serve as the State Water Quality Management Plans governing the watersheds under the jurisdiction of the Regional Board. Attachment A to this resolution contains the Basin Planning language for this TMDL.
7. The Los Angeles River Watershed is located in Los Angeles County, California. The Los Angeles River flows 51 miles from the western end of the San Fernando Valley to the Queensway Bay and Pacific Ocean at Long Beach. In addition to the Los Angeles River, several tributaries and lakes are part of the watershed which drains an area of about 834 square miles. The urbanized portion of the watershed is 609 square miles while the remaining area is mostly taken up by the Angeles National Forest. Current land use in the urban portion of the watershed is 50.8% residential, 22.1% open space and recreation, 7.8% industrial, 6.7% commercial, 5.6% public facilities and educational institutions, and 4% transportation. Beneficial uses of the Los Angeles River and surrounds include wildlife and marine habitat, including habitat for endangered species, and recreational activities such as fishing, walking, hiking, jogging, bicycling, horseback riding, bird watching and photography. Los Angeles River is divided into six reaches. The 1998 Clean Water Act 303(d) lists identify Reaches 1, 2, 3, 4, and 5 of the Los Angeles River, as impaired for trash. Tujunga Wash, Burbank Western Channel, Verdugo Wash (Reaches 1 and 2), Arroyo Seco (Reaches 1 & 2), and Rio Hondo (Reach 1) are tributaries of the Los Angeles River that are listed as impaired for trash. In addition, Peck Road Lake, Echo Park Lake and Lincoln Park Lake are listed as trash-impaired. This listing was approved by the State Water Resources Control Board on May 27, 1998. The proposed TMDL addresses impairments of water quality caused by trash in the afore-mentioned waterbodies of the Los Angeles River Watershed.
8. Although the Los Angeles River Estuary was not itself identified as impaired on the 1998 303(d) list, the data and information available to the board demonstrates that this reach is in fact impaired. The more recent 2006 303(d) list includes the Los Angeles Estuary as

impaired for trash. Therefore this TMDL includes Waste Load Allocations that would ensure attainment of standards in the Estuary.

9. The Water Quality Control Plan for the Los Angeles Region prescribes narrative water quality objectives that are applicable to trash. These water quality objectives include floating materials:

*“Waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses;”*

and solid suspended or settleable materials:

*“Waters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses.”*

10. The Regional Board's goals in establishing the TMDL for trash in the waterbodies of the Los Angeles River Watershed is to adopt a regulation designed to guide subsequent regulatory actions to ensure existing water quality standards are attained. This includes the objectives described above, and protecting the beneficial uses of the Los Angeles River, its tributaries, downstream waters, and the lakes within its watershed, and to achieve the water quality objectives set to protect those uses. The Regional Board's goals also include complying with the requirements of CWA section 303(d), and avoiding federal intervention in state water-quality planning, as would occur if the state failed to timely establish its TMDLs.
11. The Technical Report for the TMDL, prepared by staff, is titled “Trash Total Maximum Daily Loads for the Los Angeles River Watershed” and dated July 27, 2007. It identifies storm drain discharges as the primary source of trash in the waterbodies of the Los Angeles River Watershed. When a storm event occurs, the litter is washed through the storm drain sewers into the Los Angeles River, the Estuary, the beaches at Long Beach, and the Pacific Ocean. Waste Load Allocations are assigned to the Permittees and Co-permittees of the Los Angeles County Municipal Stormwater Permit and Caltrans. In addition, Waste Load Allocations may be issued to additional facilities in the future under Phase II of the US EPA Stormwater Permitting Program. The Waste Load Allocations assigned under the MS4 permit and the Caltrans permit is based on a phased reduction from the estimated baseline discharge.
12. Nonpoint source discharges (direct deposition or aerial deposit) are de minimus, and do not contribute an appreciable amount of trash to the impairment. Nonpoint source discharges will be regulated through waste discharge requirements, waivers, cleanup and abatement orders, or other appropriate regulatory tools at the discretion of the Executive Officer.
13. Compliance with the final Waste Load Allocation may be achieved through a full capture system; which is defined as any device or series of devices that traps all particles retained by a 5mm mesh screen and has a design treatment capacity of not less than the peak flow rate (Q) resulting from a one-year, one-hour storm in the sub-drainage area. The Executive Officer has authority to certify, as full-capture, trash reduction systems that meet the operating and performance requirements as described above. To date seven full capture systems have received certification; including (i) trash nets for the City of Signal Hill, (ii) two gross solids removal devices for the California Department of Transportation, (iii) catch basin brush inserts and mesh screens for the cities of Glendale, Pasadena, La Canada Flintridge, and Burbank, (iv) vertical and horizontal trash capture screen inserts for the City

of Los Angeles, and (v) a connector pipe screen device for the Los Angeles County Department of Public Works.

14. The Regional Board finds the proposed implementation schedule is both appropriate and feasible. The Regional Board finds that trash in the Los Angeles River is a significant impairment of water quality; therefore it is appropriate to proceed as expeditiously as possible to remedy these impairments. The Regional Board finds the schedule is feasible for several reasons. The Los Angeles River was listed as impaired on the 1998 303(d) list, therefore, responsible jurisdictions have known for 9 years that significant trash reduction efforts are necessary, and that regulations will be issued that require dramatic reductions in trash discharges. The proposed reductions are from baseline conditions established directly following the adoption of the 2001 Los Angeles River Watershed trash TMDL during the 2002 – 2004 storm years. Many dischargers have undertaken trash reduction actions throughout the watershed, including implementation of full-capture devices. There are, to date, seven full capture devices certified by the Executive Officer developed by Los Angeles River watershed responsible agencies that are available for immediate implementation to comply with this TMDL. Any actions taken to reduce trash since the baseline was established, contribute to compliance with the proposed schedule for this TMDL. Further, substantial trash reduction actions are required of responsible agencies under existing MS4 permits, irrespective of the Trash TMDL, and good faith compliance with those requirements, which have been in effect since 2001, would result in significant trash abatement.
15. On September 19, 2001, the Regional Board adopted a Basin Plan Amendment (Resolution 01-013) incorporating the Los Angeles River Trash TMDL into the Water Quality Control Plan (Basin Plan) for the Coastal Watersheds of Los Angeles and Ventura Counties. The TMDL subsequently was approved by the State Water Resources Control Board on February 19, 2002 and by the Office of Administrative Law on July 16, 2002. The United States Environmental Protection Agency approved the Los Angeles River Trash TMDL on August 1, 2002.
16. The City of Los Angeles and the County of Los Angeles both filed petitions in Los Angeles Superior Court challenging the Los Angeles River Trash TMDL. Subsequent negotiations led to a settlement agreement, which became effective on September 23, 2003.
17. Twenty-two other cities<sup>1</sup> (“Cities”) sued the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and State Water Resources Control Board (State Water Board) to set aside the TMDL, on several grounds. On January 26, 2006, the Court of Appeal decided every one of the Cities’ claims in favor of the Water Boards, except with respect to their CEQA compliance. (*City of Arcadia et al., Los Angeles Regional Water Quality Control Board et al.* (2006) 135 Cal.App.4th 1392.) The Cities filed a petition for review by the California Supreme Court, but on April 19, 2006, the Supreme Court declined to hear the Cities’ claims.
18. The Court of appeal rejected the following claims litigated by the Cities:

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<sup>1</sup> The cities include Arcadia, Baldwin Park, Bellflower, Cerritos, Commerce, Diamond Bar, Downey, Irwindale, Lawndale, Monrovia, Montebello, Monterey Park, Pico Rivera, Rosemead, San Gabriel, Santa Fe Springs, Sierra Madre, Signal Hill, South Pasadena, Vernon, West Covina, and Whittier. They are members of a group that refers to itself as “The Coalition for Practical Regulation.”

- a. The Court rejected the Cities' claim that the target of zero trash is unattainable and inordinately expensive. (135 Cal.App.4<sup>th</sup> at 1413 and 1427-1430.)
  - b. The Court rejected the Cities' claim that an assimilative capacity study was required before the Water Boards could determine how much trash, a pollutant that does not assimilate, would violate the narrative objectives. (135 Cal.App.4<sup>th</sup> at 1409-1413.)
  - c. The Court rejected the Cities' claim that the Water Boards were required, but failed, to conduct a cost/benefit analysis and consideration of economic factors. (135 Cal.App.4<sup>th</sup> at 1415-1418.)
  - d. The Court rejected the Cities' claim that the Water Boards were prohibited from establishing a TMDL for the Los Angeles River Estuary until it was formally listed on the 303(d) list. (135 Cal.App.4<sup>th</sup> at 1418-1420.)
  - e. The Court rejected the Cities' claims that TMDLs for storm water may not require agencies to perform better than the "maximum extent practicable", and must allow compliance through best management practices. (135 Cal.App.4<sup>th</sup> at 1427-1430.)
  - f. The Court rejected the Cities' claim that the Water Boards were required to implement load allocations for nonpoint sources of trash pollution. (135 Cal.App.4<sup>th</sup> at 1430-1432.)
  - g. The Court rejected the Cities' claim that the Water Boards failed to adhere to the data collection and analysis required by federal and state law (135 Cal.App.4<sup>th</sup> at 1433-34.)
  - h. The Court rejected the Cities' claim that the Water Boards relied on nonexistent, illegal, and irrational uses to be made of the Los Angeles River. (135 Cal.App.4<sup>th</sup> at 1432-33.)
  - i. The Court rejected the Cities' claim that the Water Boards violated the Administrative Procedures Act (APA). (135 Cal.App.4<sup>th</sup> at 1434-35.)
19. The Court did find, however, that the Water Boards did not adequately complete the environmental checklist, and that evidence of a "fair argument" of significant impacts existed such that the California Water Boards should have performed an EIR level of analysis through an EIR or its functional equivalent. (135 Cal.App. 4<sup>th</sup> at 1420-26.) The Court therefore affirmed a writ of mandate issued by the trial court, which orders the California Water Boards to set aside and not implement the TMDL until it has been brought into compliance with the California Environmental Quality Act (CEQA).
20. On June 8, 2006 the Regional Board set aside the trash TMDL and resolution # 01-013 which established it, pursuant to the writ of mandate and to sections 13240 and 13242 of the Water Code. Setting aside the TMDL was not deemed a repudiation of the settlement agreement entered into between the Los Angeles Regional Water Quality Control Board and the City of Los Angeles and the County of Los Angeles, which was executed on September 24, 2003, and the Los Angeles Water Board expressed its continued intent to be bound by that agreement. The Regional Board also directed staff to revise the CEQA documentation as directed by the writ of mandate, and to prepare and submit for the Regional Board's reconsideration, a TMDL for Trash in the Los Angeles River Watershed,

consistent with the requirements of the writ. Staff was also directed to incorporate into its proposed revised TMDL the changes agreed upon in the settlement with the City of Los Angeles, Los Angeles County and the Los Angeles County Flood Control District.

21. The CEQA documentation was revised as directed by the writ of mandate, and the Regional Board believes its obligations under the writ have been satisfied. The TMDL includes the changes agreed upon in the settlement with the City of Los Angeles, Los Angeles County and the Los Angeles County Flood Control District, and the provisions of this TMDL satisfy the Regional Board's responsibilities under that settlement agreement.
22. On August 9, 2007, prior to the Board's action on this resolution, a public hearing was conducted on the TMDL for Trash in the Los Angeles River Watershed. Notice of the hearing was published in accordance with the requirements of Water Code section 13244. This notice was published in the Los Angeles Times on March 20, 2007.
23. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. The first draft TMDL was released on July 7, 2006, and comments were solicited on that draft. A similar draft Trash TMDL was released for public comment on March 20, 2007, 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 August 9, 2007, to consider adoption of the TMDL.
24. Because the TMDL implements existing narrative water quality objectives (i.e., no floating, materials, or solid suspended or settleable material), the Regional Board (along with the State Water Resources Control Board) has determined that adopting a TMDL does not require consideration of the factors set forth in Water Code section 13241. The consideration of the Water Code section 13241 factors, by section 13241's express terms, only applies when "establishing water quality objectives." Here the Regional Board is not establishing water quality objectives, but as required by section 303(d)(1)(C) of the Clean Water Act is, adopting a TMDL that will implement the previously established objectives that have not been achieved. Implementation of standards is governed by Water Code section 13242, not 13241. In making this determination, the Regional Board has considered and relied upon a legal memorandum from the Office of Chief Counsel to the State Water Board's basin planning staff detailing why TMDLs cannot be considered water quality objectives. (See Memorandum from the Staff Counsel Michael J. Levy, Office of Chief Counsel, to Ken Harris and Paul Lillebo, Division of Water Quality: *The Distinction Between a TMDL's Numeric Targets and Water Quality Standards*, dated June 12, 2002.)
25. While the Regional Board is not required to consider the factors of Water Code section 13241, in view of the requests of commenters, the Regional Board has nonetheless developed and received substantial information pertaining to the Water Code section 13241 factors. The Regional Board has considered that information in developing and adopting this TMDL. Notably, the section 13241 factors cannot be used to circumvent the federal requirements contained in section 303(d), which require that the TMDL be established at a level necessary to implement existing water quality standards.
26. The past, present, and probable future beneficial uses of water have been considered in that the water bodies of the Los Angeles River Watershed are designated for a multitude of

beneficial uses in the Basin Plan. These beneficial uses include Municipal and Domestic Supply, Ground Water Recharge (GWR), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and Wetland Habitat (WET). The environmental characteristics of the trash-impaired waterbodies of the Los Angeles River Watershed are spelled out at length in the Basin Plan and in the technical documents supporting this Basin Plan amendment, and have been considered in developing this TMDL. Water quality conditions that reasonably could be achieved through the coordinated control of all factors which affect water quality in the area have been considered. Compliance measures such as public education, increased street sweeping, enforcement of existing litter laws, and installation of structural trash-control devices, are feasible options to be considered in attaining the numeric target of zero trash discharges. Establishing a plan that will ensure the trash-impaired waterbodies of the Los Angeles River Watershed attain water quality standards is a reasonable water quality condition. Economic considerations were considered throughout the development of the TMDL. Some of these economic considerations arise in the context of Public Resources Code section 21159 and are equally applicable here. The implementation program for this TMDL recognizes the economic limitations on achieving immediate compliance and allows a flexible implementation schedule of nine years. The need for housing within the region has been considered, but this TMDL is unlikely to affect housing needs since structural trash control measures will be implemented in already existing stormwater systems thereby circumventing land acquisition constraints. Whatever housing impacts could materialize can be ameliorated by the flexible nature of this TMDL and the implementation schedule.

27. The amendment is consistent with the State Anti-degradation Policy (State Board Resolution No. 69-16), 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 Anti-degradation Policy (40 CFR 131.12).
28. 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. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782.) The Regional Water Board staff has prepared "substitute environmental documents" for this project that contain the required environmental documentation under the State Water Board's CEQA regulations. (23 Cal. Code Regs. § 3777.) The substitute environmental documents include the TMDL staff report entitled "Trash TMDLs in the Los Angeles River Watershed", the report entitled Substitute Environmental Documents, the environmental checklist, the comments and responses to comments, the basin plan amendment language, and this resolution. The project itself is the establishment of a TMDL for trash in the Los Angeles River Watershed. While the Regional Board has no discretion to not establish a TMDL (the TMDL is required by federal law), and no discretion to establish a TMDL that does not implement water quality standards, the Board does exercise discretion in assigning waste load allocations and load allocations, determining the program of implementation, and setting various milestones in achieving the water quality standards. The CEQA checklist and other portions of the substitute environmental documents contain significant analysis and numerous findings related to impacts and mitigation measures.

29. A CEQA Scoping meeting was conducted on June 28, 2006 at the Ronald Reagan State Office Building, 300 South Spring Street, Los Angeles, CA 90013. A notice of the CEQA Scoping meeting was sent to interested parties including the cities and/or counties with jurisdiction in or bordering the Los Angeles River watershed.
30. In preparing the substitute environmental documents, the Regional Board has considered the requirements of Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and intends those documents to serve as a tier 1 environmental review. This analysis is not intended to be an exhaustive analysis of every conceivable impact, but an analysis of the reasonably foreseeable consequences of the adoption of this regulation, from a programmatic perspective. Many compliance obligations will be undertaken directly by public agencies that will have their own obligations under CEQA. In addition, public agencies, such as the Los Angeles County Department of Public Works, California Department of Transportation and various municipalities within the watershed, are foreseeably expected to facilitate compliance obligations, and to the extent that the proposed projects, including installation of best management practices (BMPs), are subject to project-level CEQA analysis, the public agency may assume those responsibilities. Responsible jurisdictions who propose BMPs that impact waters of the State through dredge or fill operations will be subjected to applicable State and federal permitting requirements. In this instance, the "Lead" agencies for such "Tier 2" projects, are legally required to ensure compliance with project-level CEQA analysis of this programmatic project. Project level impacts will need to be considered in any subsequent environmental analysis performed by other public agencies, pursuant to Public Resources Code section 21159.2. To the extent applicable, the "Tier 1" environmental analysis for this project may be used to satisfy the subsequent CEQA obligations of those agencies.
31. Consistent with the Regional Board's substantive obligations under CEQA, the substitute environmental documents do not engage in speculation or conjecture, but they do consider the reasonably foreseeable environmental impacts, including those relating to the methods of compliance, reasonably foreseeable feasible mitigation measures to reduce those impacts, and the reasonably foreseeable alternative means of compliance, which would avoid or reduce the identified impacts.
32. The proposed amendment could have a potentially significant adverse effect on the environment. However, there are feasible alternatives, feasible mitigation measures, or both, that if employed, would substantially lessen the potentially significant adverse impacts identified in the substitute environmental documents. Such alternatives or mitigation measures, however, are within the responsibility and jurisdiction of other public agencies, and not the Regional Board. Water Code section 13360 precludes the Regional Board from dictating the manner in which responsible agencies comply with any of the Regional Board's regulations or orders. When the agencies responsible for implementing this TMDL determine how they will proceed, the agencies responsible for those parts of the project can and should incorporate such alternatives and mitigation into any subsequent projects or project approvals. These feasible alternatives and mitigation measures are described in more detail in the substitute environmental documents. (14 Cal. Code Regs. § 15091(a)(2).)
33. From a program-level perspective, incorporation of the alternatives and mitigation measures outlined in the substitute environmental documents would foreseeably reduce impacts to less than significant levels.

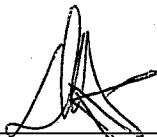


34. The substitute documents for this TMDL, and in particular the Substitute Environmental Document containing the CEQA Checklist and staff's responses to comments, identify broad mitigation approaches that should be considered at the project level. Nevertheless, given the area covered by this regulation, the Regional Board recognizes that individual responsible agencies when conducting a project-level analysis pursuant to Public Resources Code section 21159.2, may determine that not all of the feasible alternatives or feasible mitigation measures may be determined to be feasible at all necessary locations in the watershed. In such circumstances, responsible agencies may be required to make their own project-level findings pursuant to sections 15091 and 15093 of title 14 of the California Code of Regulations prior to proceeding. Finally, in view of Water Code section 13360, the Regional Board recognizes that it cannot compel responsible agencies to employ the feasible alternatives or mitigation measures recommended in the substitute environmental documents. Accordingly, the Regional Board concedes the possibility that unforeseeable impacts could occur, and impacts might not properly be mitigated at the project level, should the responsible agencies not proceed according to generally accepted engineering, construction, and environmental practices.
35. To the extent significant adverse environmental effects could occur, the Regional Board has balanced the economic, legal, social, technological, and other benefits of the TMDL against the unavoidable environmental risks and finds that specific economic, legal, social, technological, and other benefits of the TMDL outweigh the unavoidable adverse environmental effects, such that those effects are considered acceptable. The basis for this finding is more fully set forth in the substitute environmental documents. (14 Cal. Code Regs. § 15093.)
36. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, Section 11353, Subdivision (b). As specified above, Federal law and regulations require that TMDLs be incorporated into the water quality management plan. The Regional Board's Basin Plan is the Regional Board's component of the water quality management plan, and the Basin Plan is how the Regional Board takes quasi-legislative, planning actions. Moreover, the TMDL is a program of implementation for existing water quality objectives, and is, therefore, appropriately a component of the Basin Plan under Water Code section 13242. The necessity of developing a TMDL is established in the TMDL staff report, CWA section 303(d), the data contained in the administrative record documenting the trash impairments in the Los Angeles River Watershed, and the fact that EPA has approved the identification of the water bodies as impaired.
37. The Basin Plan amendment incorporating a TMDL for trash in the Los Angeles River Watershed 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 OAL and USEPA. A Notice of Decision will be filed with the Resources Agency.
38. If during the State Board's approval process Regional Board staff, the SWRCB or OAL determines that minor, non-substantive modifications to the language of the amendment are needed for clarity or consistency, the Executive Officer should make such changes consistent with the Regional Board's intent in adopting this TMDL, and should inform the Board of any such changes.

**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 Chapters 3 and 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 trash TMDL for the Los Angeles River Watershed.
2. The Regional Board hereby approves and adopts the CEQA substitute environmental documentation, 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.
3. 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.
4. 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 U.S. EPA.
5. If during the State Board's approval process, Regional Board staff, the State Board or OAL determines that minor, non-substantive modifications 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.
6. The Executive Officer is authorized to sign a Certificate of Fee Exemption, or transmit payment of the applicable fee, as may be required, to the Resources Agency.

I, Deborah Smith, 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 August 9, 2007.



Deborah J. Smith  
Interim Executive Officer

August 9, 2007