



Heal the Bay

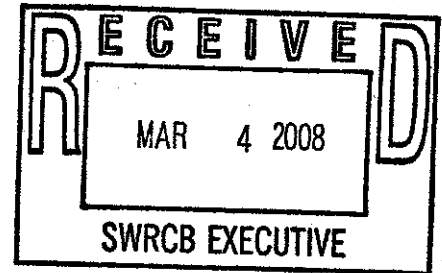
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March 4, 2007

Chairwoman Doduc and Board Members  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814



**Re: LOS ANGELES RIVER TRASH TOTAL MAXIMUM DAILY LOAD**

Dear Ms. Doduc and Board Members:

On behalf of Heal the Bay we submit the following comments on the proposed 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 ("Trash TMDL"). We appreciate the opportunity to provide comments.

Heal the Bay *strongly* supports the Los Angeles River Trash TMDL that was adopted by the Los Angeles Regional Water Quality Control Board ("Regional Board") on August 9, 2007 (Resolution No. 07-012). We were major proponents of the original Trash TMDL adopted by the Regional Board and State Board on September 19, 2001 and February 19, 2002, respectively, as the provisions of the TMDL paved the way for water quality standards attainment. Also, we helped negotiate the definition of full capture device with the Regional Board, LA County, and City of LA. In the same vein, the proposed Trash TMDL meets the threshold of attaining and maintaining water quality standards as set forth in the Clean Water Act. 33 U.S.C. § 1313(d). Of particular note, the original Trash TMDL itself stood strong against many legal challenges over the past five years, as the Court of Appeals ruled in favor of the Regional Board in every one of the Plaintiff's claims against the TMDL, except with respect to CEQA.

Given the State Board's acknowledgement that the original LA River Trash TMDL was an appropriate piece of regulation with the adoption in 2002 and subsequent legal validation of the Trash TMDL by the judicial system, the State Board has no choice but to adopt the Trash TMDL. In addition, the State Board recently adopted 5 trash TMDLs in the Los Angeles Region that were modeled after the original Los Angeles River Trash TMDL. Our detailed comments on the Trash TMDL are outlined below:

## **I. TRASH IMPAIRS THE BENEFICIAL USES OF THE LOS ANGELES RIVER**

### ***The Trash Problem is Empirically Significant***

As acknowledged throughout the Trash TMDL Staff Report, trash significantly impairs beneficial uses of the Los Angeles River. It is a well established fact that runoff from urban storm drains is the number one source of coastal pollution, and is a continuing threat to marine life and human health in Los Angeles County. Urban runoff carries trash and other pollutants that go directly to local streams, such as the Los Angeles River, and eventually to the ocean unfiltered and untreated. Heal the Bay has routinely documented excessive trash in the River during annual Coastal Cleanup Days—in 2005 volunteers collected nearly 4,000 lbs of trash in a period of several hours at two sites on the Los Angeles River (Elysian Park and Sepulveda Basin at Balboa Blvd). Compton Creek, a tributary of the LA River, is arguably the most trash impaired waterbody in the region and was recently listed as impaired on the 2006 303(d) List of Impaired Waterbodies. Large amounts of trash have been collected and removed from Compton Creek through various cleanup efforts. For instance, Los Angeles County Department of Public



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Works has employed a contractor for over four years to implement a cleanup program in the channelized portion of Compton Creek. They report that a total of 21.55 tons of trash were removed between June and October of 2005. At an April 2003 Heal the Bay-sponsored Compton Creek clean-up event, volunteers removed over 10 tons of trash in a period of less than three hours.

The Los Angeles River supports, or should support, a host of beneficial uses. Today, at various reaches of the river, 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 the Los Angeles River waters.<sup>1</sup> There can be no question that trash has tremendously impaired these beneficial uses of the river, particularly, but without limitation: REC1; REC2; GWR; WARM; MAR; WILD; RARE; potential MUN, IND., MIGR, SPWN, and SHELL.

## II. THE TMDL FOR TRASH SHOULD REMAIN AT ZERO

### *Staff is Correct in Concluding that the Basin Plan Water Quality Standards Require a Trash TMDL of Zero*

The Trash TMDL establishes a numeric target of zero trash and a final Waste Load Allocation ("WLA") of 0% of the Baseline WLA. We strongly support the Trash TMDL requirement of zero trash discharge, as zero is the only appropriate TMDL for trash given the water quality standards for the Los Angeles River set forth in the Basin Plan. Moreover, the Regional Board and State Board acknowledged that the zero trash discharge limit was appropriate when they adopted the original LA River Trash TMDL in 2001 and 2002, respectively.

The federal Clean Water Act requires states to establish TMDLs "...at levels necessary to obtain and maintain the applicable narrative and numerical WQS [water quality standards] with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality."<sup>2</sup> The Basin Plan calls for no floatables or settleables that will cause a nuisance or adversely affect beneficial uses. Even small quantities of trash violate the Clean Water Act and Basin Plan. For instance, small amounts of trash can maim or kill wildlife that becomes entangled in, or ingests, the debris. Plainly, zero is the only fair interpretation of the Basin Plan water quality standards that will guarantee protection of the beneficial uses of the Los Angeles River with an appropriate margin of safety. Thus, the use of zero trash discharge is, clearly, appropriate.

## III. IMPLEMENTATION

### *The Proposed Definition of a Full Capture System is Appropriate*

The Implementation Element of the Draft Trash TMDL specifies that compliance with final waste load allocations may be accomplished by using a "full capture system." Draft Trash TMDL at 3. In addition, the document provides the technical requirements of such a system. *Id.* As you know, this stems from a settlement that was negotiated through a series of stakeholder meetings with the Regional Board, the City of Los Angeles, Los Angeles County, Heal the Bay and Santa Monica Baykeeper. We believe that this

<sup>1</sup> The Los Angeles River's beneficial uses include contact recreation such as swimming, non-contact recreation such as fishing, warm fresh water habitat, wildlife habitat, estuarine habitat, marine habitat, rare or threatened or endangered species, migration of aquatic organisms, spawning and reproduction, and early development of fish, commercial and sport fishing, shellfish harvesting, wetland habitat and cold fresh water habitat. 1994 Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan), pp. 2-10.

<sup>2</sup> 40 C.F.R. Section 130.7(c)(1)



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agreed-upon definition is protective of water quality. Thus, we strongly support the decision to include this provision in the Trash TMDL.

*The Proposed Implementation Schedule is Appropriate*

The Implementation Schedule in the Trash TMDL requires full compliance, meeting zero percent of the baseline load, after nine years of implementation. The required percent reductions begin during the first implementation year. *Id.* Heal the Bay strongly supports this implementation schedule. The responsible parties have had over five years—since August 22, 2002—to develop trash reduction strategies and collect data. In addition, millions in Bond funds from the State have been available for trash capture BMPs, and Los Angeles has allocated over 25 million dollars in Proposition O funds for trash exclusion inserts. There is no reason to delay actual trash reductions any longer. Thus, we urge the State Board to adopt the Implementation Schedule as outlined in Resolution No. 07-012.

**IV. CONCLUSION**

We appreciate the opportunity to comment on this important proposed step toward restoring the Los Angeles River. The original Trash TMDL adopted by the State Board in 2002 was precedent setting and a major step forward for water quality protection. We urge the State Board to adopt the Trash TMDL for the Los Angeles River set at zero and to *not* take a step backwards in water quality protection.

If you have any questions, please contact me at 310-451-1500.

Sincerely,

Kirsten James  
Water Quality Director