



Heal the Bay

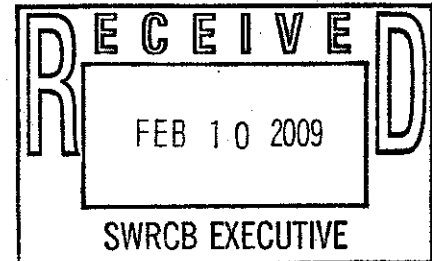
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February 10, 2009

Chairwoman Doduc and Board Members
State Water Resources Control Board
1101 I Street, 24th Floor
Sacramento, CA 95814
Sent Via Email [commentletters@waterboard.ca.gov]



Re: Comment Letter – Malibu Creek Watershed Trash TMDL

Dear Chair 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 to Incorporate Total Maximum Daily Loads to Reduce Trash Malibu Creek Watershed (“Draft TMDL” or “Draft Trash TMDL”). We appreciate the opportunity to provide comments.

Heal the Bay supports the Draft TMDL adopted by the Los Angeles Regional Water Quality Control Board on May 1, 2008 (Resolution No. R4-2008-007). In particular, we strongly support the Regional Board’s requirement of zero trash discharge in the Draft TMDL.

The Draft Trash TMDL establishes a numeric target of zero trash, a final Waste Load Allocation (“WLA”) of zero trash, and a final Load Allocation (“LA”) of zero trash. We strongly support these requirements, as zero is the only appropriate TMDL for trash given the water quality standards for these waterbodies set forth in the Basin Plan and Clean Water Act requirements. 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.”¹ The Los Angeles 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 ingests or becomes entangled in the debris. As mentioned in the Draft Trash TMDL, small and large particles of trash can inhibit the growth of aquatic plants, reducing habitat they provide fish and other organisms to use for spawning (Page 3). Plainly, zero is the only fair interpretation of the Basin Plan water quality standards that will guarantee protection of the beneficial uses of these waterbodies with an appropriate margin of safety.

¹ 40 C.F.R. Section 130.7(c)(1)



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The State Water Resources Control Board acknowledged that a zero trash discharge requirement was an appropriate piece of regulation with the approval of the LA River Trash TMDL in 2002 and 2008 and five lake and estuary trash TMDLs in 2007, and subsequent legal decisions regarding this Trash TMDL by the judicial system further validates this limit. Thus, the proposed zero trash discharge limit is, clearly, appropriate.

In sum, we believe this limit of zero trash is the only way to meet the threshold of attaining and maintaining water quality standards as set forth in the Clean Water Act, and thus, strongly support the proposed TMDL.

If you have any questions, please contact us at (310) 451-1500.

Sincerely,

Kirsten James, MESM
Water Quality Director

W. Susie Santilena, MS, E.I.T.
Water Quality Scientist