

STATE WATER BOARD
RESOLUTION NO. 2005-0072

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR THE LOS ANGELES REGION INCORPORATING A TOTAL MAXIMUM
DAILY LOAD (TMDL) FOR BACTERIA IN THE MALIBU CREEK WATERSHED

WHEREAS:

1. The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles region on June 13, 1994, which was approved by the State Water Resources Control Board (State Water Board) on November 17, 1994 and by the Office of Administrative Law (OAL) on February 23, 1995.
2. On December 13, 2004, the Los Angeles Water Board adopted Resolution No. 2004-019R (Attachment) amending the Basin Plan to incorporate a TMDL for bacteria in the Malibu Creek watershed.
3. During consultations between the Los Angeles Water Board staff and the County of Los Angeles, the County raised concerns about some of the language of the TMDL. Findings 3 through 7 of this resolution are intended to provide clarification. As the Regional Board noted in finding 4 of its approval resolution, the numeric targets and wasteload allocations of the TMDL are only enforced for a "discharger's own discharges". Wasteload allocations are implemented when the Regional Board develops subsequent permit requirements to implement the TMDL. As a result, municipal storm water dischargers are only responsible for discharges from the municipal separate storm sewer system. The compliance of responsible agencies and jurisdictions (as defined in the TMDL) with the TMDL's wasteload allocations, is based on discharges from the municipal separate storm sewer system, if any, and then only in the context of the NPDES permit, or from permitted point sources for which the responsible agency or jurisdiction is the permittee.
4. The analysis identified in Regional Board finding 4 and State Board finding 3 applies equally to the TMDL's load allocations, which likewise, are not self-implementing.
5. To the extent cities and counties regulate single-family onsite wastewater treatment systems through local oversight, their oversight of system design criteria and/or operations provides an important mechanism to achieve the load allocations. The cities' and counties' responsibilities for single-family onsite wastewater treatment systems under the TMDL relate to that oversight. The Regional Board and responsible jurisdictions and agencies will work cooperatively to identify and to abate discharges from single-family onsite wastewater treatment systems and other nonpoint sources causing exceedances of the load allocations. As defined in the TMDL, the responsible jurisdictions or agencies would not be subject to an enforcement action as a result of the TMDL for discharges from onsite wastewater treatment systems or other nonpoint sources they do not own or operate.
6. Consistent with State Board and U.S. EPA guidance, the TMDL's basin plan amendment includes an element that identifies various monitoring steps designed to determine the

effectiveness of the TMDL and to determine whether wasteload allocations and load allocations are being achieved. This element appears in a section entitled "Compliance Monitoring;" however, as discussed in Regional Board finding 4 and State Board findings 3 and 5, compliance for purposes of any enforcement action is determined in the context of a specific discharger's permit.

7. To the extent the Regional Board or a responsible jurisdiction or agency determines that a particular source (including a single-family onsite wastewater treatment system) is causing bacteria loading to Malibu Creek, nothing in the TMDL restricts the Regional Board or Executive Officer's authority to take appropriate action against the discharger. Appropriate action may include, without limitation, requesting technical reports and monitoring data or issuing a cleanup and abatement order. Similarly, nothing in the TMDL limits the ability of the Executive Officer to tailor to specific circumstances any information requests pursuant to the Water Code sections 13267 and 13225.
8. Los Angeles Regional Water Board staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.
9. The Los Angeles Water Board found that the additions of this amendment would result in no adverse effect on wildlife, and the amendment would be consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16) and federal antidegradation requirements.
10. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Boards may revise Basin Plans, and section 13242, which requires a program of implementation of water quality objectives. The State Water Board also finds that the TMDL as reflected in the Basin Plan amendment is consistent with the requirements of federal Clean Water Act section 303(d).
11. State Water Board staff determined that provisions of the amendment as adopted warranted minor, non-substantive clarification of the language of various provisions.
12. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. The TMDL must also be approved by the U.S. Environmental Protection Agency (USEPA).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Los Angeles Water Board Basin Plan to incorporate a TMDL for bacteria in the Malibu Creek watershed as approved in Los Angeles Water Board Resolution No. 2004-019R. and as corrected by the Los Angeles Water Board Executive Director.

2. Authorizes the Executive Director to transmit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval.

CERTIFICATION

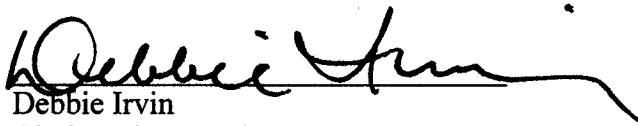
The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on September 22, 2005.

AYE: Tam M. Doduc
 Peter S. Silva
 Arthur G. Baggett, Jr.
 Gerald D. Secundy

NO: None.

ABSENT: None.

ABSTAIN: Richard Katz


Debbie Irvin
Clerk to the Board