

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

RESOLUTION NO. 04-023
March 4, 2004

**Amendment to the Water Quality Control Plan for the Los Angeles Region
to Amend the Total Maximum Daily Load for Trash in the Ballona Creek and
Wetland.**

**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 (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. 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 and 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. 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 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.
5. Ballona Creek is located in Los Angeles County, California. Ballona Creek flows slightly over 10 miles from the City of Los Angeles, through Culver City, reaching the ocean at Playa del Rey. Adjacent to the downstream channel of Ballona Creek are the Marina del Rey Harbor, Ballona Lagoon, Venice Canals, Del Rey Lagoon, and Ballona Wetlands.

6. On September 19, 2001, the Regional Board adopted the Ballona Creek and Wetland Trash TMDL. 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 18, 2002. The United States Environmental Protection Agency approved the Ballona Creek and Wetland Trash TMDL on August 1, 2002.
7. The City of Los Angeles and the County of Los Angeles both filed petitions and complaints in Los Angeles Superior Court challenging the current Ballona Creek Trash TMDL. Subsequent negotiations led to a settlement agreement, which became effective on September 23, 2003. The Basin Plan amendment incorporates the negotiated language into the Ballona Creek and Wetland TMDL.
8. On March 4, 2004, prior to the Board's action on this resolution, public hearings were conducted on the Ballona Creek and Wetland Trash TMDL. Notice of the hearing for the *Ballona Creek and Wetland Trash TMDL* was published in accordance with the requirements of Water Code section 13244. This notice was published in the Los Angeles Times.
9. In amending the Basin Plan, the Regional Board considered the factors set forth in sections 13240 and 13242 of the Water Code.
10. 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).
11. 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.
12. The proposed amendment results in no potential for adverse effect (de minimis finding), either individually or cumulatively, on wildlife.
13. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
14. The Basin Plan amendment incorporating minor changes to the *Ballona Creek and Wetland Trash TMDL* 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 OAI and USEPA. A Notice of Decision will be filed.
15. If during its approval process the SWRCB 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.

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 revisions to the Ballona Creek and Wetland Trash 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 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.

I, Dennis A. Dickerson, 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 March 4, 2004.



Dennis A. Dickerson
Executive Officer