

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION - DIVISION OF WATER QUALITY DATE: TO BE DETERMINED

### ITEM

#### SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES BASIN REGION (BASIN PLAN) TO REVISE THE TOTAL MAXIMUM DAILY LOAD FOR METALS IN THE LOS ANGELES RIVER AND TRIBUTARIES

#### DISCUSSION

On June 2, 2005, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) adopted, by Resolution No. R05-006, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a Total Maximum daily Load (TMDL) for metals for the Los Angeles River. The TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) in [Resolution No. 2005-0077](#) on October 20, 2005 and by the Office of Administrative Law (OAL) on December 9, 2005. U.S. EPA approved the Los Angeles River Metals TMDL on December 22, 2005. The effective date of the TMDL established by Resolution No. R05-006 was January 11, 2006, when the Certificate of Fee Exemption was filed with the California Department of Fish and Game.

On September 6, 2007, the Los Angeles Water Board re-adopted the TMDL by Resolution No. R07-014 in compliance with a writ of mandate issued by the Los Angeles County Superior Court in the matter of *Cities of Bellflower et al. v. State Water Resources Control Board et al.* (Los Angeles Superior Court No. BS101732). The writ directed the Los Angeles Water Board to consider alternatives to the project before re-adopting the TMDL. The writ was limited to this issue, and the TMDL was affirmed in all other respects. The re-adopted-TMDL replaced the previous implementation deadlines that were tied to "the effective date of the TMDL" with specific dates. The re-adopted TMDL was subsequently approved by State Water Board in [Resolution No. 2008-0046](#) on June 17, 2008 and by the Office of Administrative Law on October 14, 2008. U.S. EPA approved the re-adopted Los Angeles River Metals TMDL on October 29, 2008, which is the effective date of the TMDL. On May 7, 2009, in compliance with the writ, the Los Angeles Water Board voided and set aside Resolution No. R05-006.

On May 6, 2010, the Los Angeles Water Board adopted, by [Resolution No. R10-003](#) and amendment to the Basin Plan to revise the TMDL for Metals in the Los Angeles River and Tributaries.

#### TMDL REVISION

The TMDL numeric targets and waste load allocations (WLAs) are based on criteria in the California Toxics Rule (CTR). The CTR allows for the adjustment of certain metals criteria through the use of a water-effect ratio (WER) that accounts for site-specific chemical conditions. A WER represents the correlation between metals that are measured and metals that are biologically available and toxic. A WER is a ratio calculated by dividing an appropriate measure

# DRAFT

of toxicity of a material in site water by the same measure of toxicity of the same material in laboratory test water. No site-specific WERs had been developed for the Los Angeles River before the TMDL was adopted. Therefore, for those metals criteria containing a WER multiplier, a WER default value of 1.0 was assumed, as directed in the CTR.

The Donald C. Tillman (Tillman), Los Angeles-Glendale (LA-Glendale) and Burbank water reclamation plants are the three major publically owned treatment works (POTWs) in the Los Angeles River watershed. The Los Angeles River Metals TMDL assigns WLAs to these POTWs and specifies that compliance schedules may allow up to five years in NPDES permits to meet WLA-based permit requirements. On October 18, 2005, the City of Los Angeles Bureau of Sanitation and the City of Burbank submitted a work plan for a copper WER study in the Los Angeles River downstream of the Tillman, LA-Glendale and Burbank POTWs. The WER study was conducted under the guidance of a technical advisory committee (TAC) and Los Angeles Water Board staff.

On June 3, 2008, the City of Los Angeles Regulatory Affairs Division and the City of Burbank submitted the *Final Report for the Los Angeles River Copper WER Study*. The WER was developed for specific reaches of the Los Angeles River with the intention that it could be used to support development of a copper site specific objective or, in accordance with the "Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (State Implementation Policy or SIP), directly incorporated into the NPDES permits for the three POTWs.

After further consideration by Los Angeles Water Board staff, it was determined that the copper WER developed in the 2008 study could not be incorporated directly into the NPDES permits because there are copper WLAs currently assigned to the Tillman, LA-Glendale and Burbank POTWs as part of the Los Angeles River and Tributaries Metals TMDL. Both state and federal law require that NPDES permits are consistent with any available WLAs (40 CFR 122.44; Cal. Water Code §13263 and §13372). In order to apply the copper WER from the 2008 study, the TMDL would need to be revised to adjust the copper WLAs based on the WER. Because the copper WLAs for all sources in the watershed are interdependent, adjusting the copper WLAs for the three major POTWs would impact the copper WLAs for other sources. And, because the copper WER study was developed using primarily the study design outlined in U.S. EPA's 2001 *Streamlined Water-Effect Ratio Procedure for Discharges of Copper*, which is not applicable for multiple sources, the copper WER cannot be used to adjust the copper WLAs for sources other than the POTWs.

This amendment revises the TMDL to adjust the numeric targets for certain reaches and the corresponding WLAs for the POTWs based on the 2008 WER study. Because it is not appropriate to adjust the LAs and WLAs for other sources based on the 2008 WER study, the TMDL revision only adjusts the copper targets for Reaches 1-4 of the River and the Burbank Western Channel and the copper WLAs for the Tillman WRP, LA-Glendale WRP, and Burbank WRP. The copper allocations for other sources remain based on the default WER value of 1.0 and the remaining portion of the loading capacity for Reaches 1-4 of the river and the Burbank Western Channel will remain unallocated. The amendment does not change the implementation schedule contained in the TMDL.

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## **POLICY ISSUE**

Should the State Water Board approve the amendment to the Basin Plan to revise the TMDL for metals in the Los Angeles River?

## **FISCAL IMPACT**

Los Angeles Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

## **REGIONAL WATER BOARD IMPACT**

Yes, approval of this resolution will amend the Los Angeles Water Board's Basin Plan.

## **STAFF RECOMMENDATION**

That the State Water Board:

1. Approves the amendment to the Basin Plan adopted under Los Angeles Water Board Resolution No. R10-003.
2. Authorizes the Executive Director or designee to submit the amendment adopted under Los Angeles Water Board Resolution No. R10-003 for approval of the regulatory provisions and the U.S. EPA to approve the TMDL.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2011-

### APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION BASIN (BASIN PLAN) TO REVISE THE TOTAL MAXIMUM DAILY LOAD FOR METALS IN THE LOS ANGELES RIVER

#### WHEREAS:

1. On June 2, 2005, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) adopted, by Resolution No. R05-006, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a Total Maximum daily Load (TMDL) for metals for the Los Angeles River and Tributaries. The TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) in [Resolution No. 2005-0077](#) on October 20, 2005 and by the Office of Administrative Law (OAL) on December 9, 2005. U.S. EPA approved the Los Angeles River Metals TMDL on December 22, 2005. The effective date of the TMDL established by Resolution No. R05-006 was January 11, 2006.
2. On September 6, 2007, the Los Angeles Water Board re-adopted the TMDL by Resolution No. R07-014 in compliance with a writ of mandate issued by the Los Angeles County Superior Court in the matter of *Cities of Bellflower et al. v. State Water Resources Control Board et al.* (Los Angeles Superior Court No. BS101732). The writ directed the Los Angeles Water Board to consider alternatives to the project before re-adopting the TMDL. The writ was limited to this issue, and the TMDL was affirmed in all other respects. The re-adopted-TMDL replaced the previous implementation deadlines that were tied to “the effective date of the TMDL” with specific dates. The re-adopted TMDL was subsequently approved by State Water Board in [Resolution No. 2008-0046](#) on June 17, 2008 and by the Office of Administrative Law on October 14, 2008. U.S. EPA approved the re-adopted Los Angeles River Metals TMDL on October 29, 2008, which is the effective date of the TMDL. On May 7, 2009, in compliance with the writ, the Los Angeles Water Board voided and set aside Resolution No. R05-006.
3. On May 6, 2010, the Los Angeles Water Board adopted [Resolution No. R10-003](#), an amendment to the Basin Plan to revise the TMDL for Metals in the Los Angeles River and Tributaries.
4. The Los Angeles Water Board found that the analysis contained in the Final Project Report, the California Environmental Quality Act (CEQA) “Substitute Environmental Document” for the proposed Basin Plan amendment, including the CEQA Checklist, the staff report, and the responses to comments prepared by Los Angeles Water Board staff and Resolution R10-003 adopted by the Los Angeles Water Board complies with the requirements of the State Water Board’s certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.
5. The State Water Board reaffirms the finding made on October 20, 2005, that in amending the Basin Plan to establish this TMDL, the Los Angeles Water Board complied with the requirements set forth in Sections 13240, 13242, and 13269 of the California Water Code. The State Water Board also reaffirms that the TMDL is consistent with the requirements of federal Clean Water Act section 303(d).

# DRAFT

6. The Los Angeles Water Board finds the amendment is consistent with the State Antidegradation Policy ([State Board Resolution No. 68-16](#)), and the Federal Antidegradation Policy (40 CFR 131.12), in that it does not allow degradation of water quality and ensures that beneficial uses are fully protected. The amendment includes language requiring that effluent limitations based on WER-adjusted WLAs shall ensure that effluent concentrations and mass discharges do not exceed the levels of water quality that can be attained by performance of a facility's treatment technologies existing at the time of permit issuance, reissuance, or modification.
7. 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 U.S. EPA.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under Los Angeles Water Board Resolution No. R10-003.
2. Authorizes the Executive Director or designee to submit the amendment adopted under Los Angeles Water Board Resolution No. R10-003 to OAL for approval of the regulatory provisions and the U.S. EPA to approve the TMDL.

## 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 Resources Control Board held on (TBD).

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Jeanine Townsend  
Clerk to the Board