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Fran Pavley, State Senator  
Toni Atkins, State Assemblymember  
Geraldine Knatz, Public Member  
Michael Brown, Public Member

## MEMORANDUM

TO: Ocean Protection Council  
FROM: Karen Kayfetz, Sea Grant Fellow  
DATE: August 27, 2014  
RE: Resolution supporting the State Water Resources Control Board's adoption of a Trash Policy

ATTACHMENTS: Resolution supporting the State Water Resources Control Board's adoption of a Trash Policy

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### REQUESTED ACTION:

Staff recommends that the Ocean Protection Council adopt the following resolution pursuant to Sections 35500 *et seq.* of the Public Resources Code:

"The California Ocean Protection Council hereby resolves that, the Chairman of the Council will write a letter of support on behalf of the Council to the State Water Resources Control Board to encourage adoption the proposed Amendments to Statewide Water Quality Control Plans to Control Trash. This letter shall include recommendations that the Board's Trash Policy consider including additional requirements for measuring the success of programs that encourage the reduction of waste rather than its full capture, including monitoring and reporting by responsible entities who adopt this approach."

### BACKGROUND:

Marine debris is a major threat to the health of our oceans and has been a high priority for the California Ocean Protection Council (OPC), which passed a [resolution on preventing and reducing marine debris](#) in 2007 and a [resolution endorsing extended producer responsibility](#) in 2009. The 2012-2017 OPC Five-Year Strategic Plan identifies marine debris as a priority issue and provides the guidance for the OPC to focus on "reducing the amount of plastics and trash that enter the environment." The majority of marine debris comes from land-based sources including industrial outfalls, landfills, littering, dumping, and poor waste management. Trash discarded on land frequently ends up in waterways and the ocean as rainstorms wash it into gutters, storm drains, creeks, and rivers. The presence of trash in waterways, on beaches, and in the ocean adversely affects wildlife, public health, and the economy. Furthermore, the OPC Five-Year Strategic Plan specifically recommends that the Council should "support the [State Water Resources Control Board] and other agencies in adopting and implementing a statewide trash policy and other relevant trash regulations."

Trash has been accumulating in many California waterways and beaches, and there are currently 73 waterways in California listed as "impaired waters" pursuant to the Clean Water Act. Some waters are so clogged with trash that they are unfit for swimming, fishing, and other recreational and economic uses. Trash is considered a pollutant subject to regulation under the Clean Water

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Act and the Porter-Cologne Water Quality Control Act. Where runoff and storm water transport trash into state and federal waters, it is considered a discharge of waste subject to Water Board authority. Studies show that trash is predominantly generated on land and then transported through storm water to receiving water bodies.

Numerous statewide laws and local ordinances have been adopted in California to address trash. For instance, anti-litter laws, bans on polystyrene foam takeout food containers, and bottle deposits. Under the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waterways. Existing NPDES permits have requirements for trash reduction in the form of institutional controls, such as street sweeping and educational programs. However, to date, California has no statewide guidance on how local governments should reduce the amount of trash that flows into its waters.

For those waters that do not attain water quality standards even after NPDES permits are issued to point sources, the Clean Water Act requires states to adopt Total Maximum Daily Loads (TMDLs) for the pollutants causing impairment. The Colorado River Basin Water Board adopted a TMDL for trash for the New River that also included a numeric target of zero trash. The Los Angeles Water Board has adopted numerous trash and debris TMDLs, setting the numeric target for trash in the applicable water bodies to zero. Implementation of the Los Angeles program started in 2007, and has significantly reduced trash from entering waterways in that region. The program is under budget, ahead of schedule, and is currently estimated to stop over one million pounds of trash each year from entering waters through storm drains. The San Francisco Bay Water Board uses provisions in the Municipal Regional Stormwater Permit to prohibit trash discharges, without a numeric target but with narrative language. Current approaches to regulate trash in California regions are not entirely consistent, and there is not yet a statewide narrative objective for trash reduction. The SWRCB has identified a strong need for a statewide consistency regarding trash control.

Inspired by successes in Los Angeles and other regions, the State Water Resources Control Board (SWRCB) started working in 2010 on a statewide plan to reduce trash discharges into state waterways. On June 10<sup>th</sup>, 2014 the State Water Resources Control Board (SWRCB) released the “Draft Amendments to Statewide Water Quality Control Plans to Control Trash” (Trash Amendments) for public comment. The Trash Amendments, if adopted, would become the first statewide plan in the nation to reduce the amount of trash entering our waterways. The Trash Amendments set a narrative objective for zero trash in state waterways. The Trash Amendments would require that NPDES permits and permits for discharges of stormwater include plans for how to prevent trash from being discharged. The proposed Trash Amendments would provide a narrative objective that refers to trash as a specific pollutant, which no current regional basin plans do. The adoption of the Trash Amendments would be a positive step towards a healthier California coast and ocean by reducing the amount of trash that is discharged from land onto beaches and into the ocean.

The Trash Amendments outline two tracks to compliance in newly issued NPDES and stormwater discharge permits. Track 1 would require permittees to install, operate, and maintain full-capture systems in all storm drains that capture runoff from areas that have high potential to

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generate trash, as identified in the SWRCB staff report on the Trash Amendments. Compliance with Track 1 is measured by demonstrating installation, operation, and maintenance of the systems. Track 2 would require permittees to implement a plan with a combination of full capture systems, other treatment controls, institutional controls, and/or multi-benefit projects. Compliance with Track 2 is measured by implementing and reporting a set of monitoring objectives that are selected by the permittee. The combination of controls implemented by permittees choosing Track 2 are meant to achieve reductions equivalent to Track 1. Permittees choosing Track 2 are required to report on the implementation of their trash controls, but are not actually required to monitor amounts of trash present or amounts of trash discharged to waterways.

### **RECOMENDATONS:**

Staff recommends that the OPC adopt a resolution to write a letter of support on behalf of the Council to the SWRCB to encourage adoption of the Trash Amendments. The first comment period has closed and the Trash Amendments will undergo further revision and be re-released for further comment in the fall of 2014. The resolution, if adopted, would authorize a letter of support be submitted in the second phase of public comments.

Furthermore, the OPC values the use of scientific measures to verify program effectiveness. Therefore the proposed resolution also urges the SWRCB to provide compliance monitoring criteria to demonstrate trash reduction as a result of adoption of the Trash Amendments. Specifically staff recommends that permittees selecting Track 2 are provided with guidelines to monitor trash and report on trash reductions in addition to reporting on the controls being used to achieve those reductions.

### **CONSISTENCY WITH THE CALIFORNIA OCEAN PROTECTION ACT:**

The proposed action is consistent with the California Ocean Protection Act (Division 26.5 of the Public Resources Code). Section 35615(a)(1) specifically directs the Council to coordinate activities of state agencies to improve the effectiveness of state efforts to protect ocean resources, establish policies to coordinate the collection of scientific data related to the ocean, and recommend changes in state or federal law. It is also consistent with Section 35515(f) which directs the Council to identify scientific research and planning that is useful for the protection and conservation of coastal waters and ocean ecosystems, and coordinate and assist state agencies in addressing those needs.

### **CONSISTENCY WITH THE OPC'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Passage of the resolution is consistent with the guidance of Goal D (Coastal and Ocean Impacts from Land), Issue 10: Marine Debris. Specifically the resolution is consistent with the following action proposed in the strategic plan:

“Support the SWRCB and other agencies in adopting and implementing a statewide trash policy and other relevant trash regulations.”

Adoption of the resolution promotes the adoption of the Trash Amendments by providing OPC endorsement, and provides additional encouragement for the SWRCB to provide clear compliance monitoring criteria to demonstrate the beneficial impact of the policy. This action serves the OPC’s larger goal of reducing the amount of trash that enters the environment.