CITY OF CLAREMONT

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October 26, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Dear Ms. Townsend:

Comment Letter – Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL

The City of Claremont ("Claremont") submits this comment letter on the Dominguez Channel/Harbor Toxics TMDL (Total Maximum Daily Load). Claremont's comment is very simple – the State Board must revise the Basin Plan Amendment incorporating the TMDL to clarify that Claremont is not a responsible party under the TMDL. This clarification must occur because the record contains no evidence to support the inclusion of Claremont in the TMDL and the Los Angeles Regional Board's responses to comments do not adequately explain why Claremont is included. At a minimum, the TMDL must be clarified to expressly provide that Claremont has no direct or indirect obligations under the TMDL that are different than or in addition to any applicable requirements of the San Gabriel River and Impaired Tributaries Metals and Selenium TMDL.

The Los Angeles Regional Board's Resolution No. R11-008 expressly provides that the Los Angeles and San Gabriel Rivers "are not [the] focus of this TMDL." The Regional Board's responses to comments also stress this point, stating that "the Los Angeles River Watershed and San Gabriel River Watershed are not [the] focus of these TMDLs." (See Response to Comment No. 1.2) The responses to comments further provide that "WLAs and LAs are not assigned to [the] Los Angeles River and San Gabriel River" and that dischargers in those watersheds are not identified as responsible parties for achieving compliance at this time. (See Response to Comment No. 1.3 and 14.2) Nevertheless, the Basis Plan Amendment incorporating the TMDL purports to establish and assign waste load allocations for "MS4-LA County Permittees." Moreover, the Basin Plan Amendment purports to incorporate by reference "responsible parties" from the Los Angeles River and San Gabriel River Metals TMDLs into this TMDL, and purports to impose unclear but apparently new monitoring requirements on those parties. (See Basin Plan Amendment at p. 12 and 22-23.)

Such a backhanded approach to a Basin Plan Amendment incorporating a TMDL is not appropriate either procedurally or substantively. Procedurally, Claremont has not been provided with fair notice about how the Basin Plan Amendment might apply to it and no evidence of why Claremont should be incorporated by reference into this Amendment. It is fundamentally unfair to cast such a wide but indirect net through the Basin Plan process.

Substantively, it is unfair to layer additional requirements on Claremont above and beyond any portions of the San Gabriel River Metals and Selenium TMDL that apply to it. During the development of the San Gabriel River Metals and Selenium TMDL, Regional Board staff responded to a comment regarding the breadth of that TMDL by stating as follows: "addressing the impairing metals and selenium throughout the San Gabriel River Watershed will ensure that they do not contribute to impairments elsewhere in the watershed." Thus, any loading is addressed by that TMDL. Since the San Gabriel River Selenium and Metals TMDL addresses these potential loads, there is no basis to include Claremont in a TMDL that does not focus on the San Gabriel River but addresses issues at the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. The Regional Board's responses to comments confirm this fact by noting that other TMDL's address upstream loading, but the Basin Plan Amendment has not been revised to remove Claremont.

For these reasons, Claremont believes that the State Board must: (1) revise the Basin Plan Amendment to make it clear that Claremont is not a "responsible party" on the TMDL; or (2) at a minimum, clarify that the Basin Plan Amendment creates no additional requirements – direct or indirect – for Claremont beyond compliance with any applicable provisions (including monitoring) of the San Gabriel River Selenium and Metals TMDL.

To the extent the State Board fails to make these changes, Claremont joins in the technical comments submitted by other MS4s within the San Gabriel River Watershed regarding the deficiencies in the Basin Plan Amendment and TMDL, and requests that the Amendment be remanded to the Regional Board to provide Claremont with notice and a fair opportunity to be heard on how and why the Basin Plan Amendment incorporating the TMDL should apply to it.

Sincerely,

Craig Bradshaw
City Engineer

c: City Council
Jeffrey C. Parker, City Manager
Tony Ramos, Assistant City Manager
Brian Desatnik, Director of Community Development
Sonia Carvalho, City Attorney

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