



# CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT  
HARBOR RESOURCES

May 13, 2014

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
Email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



**Re: City of Newport Beach Recommendations for the:  
Proposed Amendment to the LA Regional Basin Plan to Revise the TMDLs for  
Marina del Rey Toxic Pollutants**

Dear State Board Commissioners:

The City of Newport Beach supports efforts to protect marine life from toxics substances in our waterways and understands there are concerns regarding possible copper exceedances at Marina del Rey, Shelter Islands, Newport Harbor and other California harbors and marinas. We are speaking with staff from the County of Los Angeles, Port of San Diego and other coastal agencies, and we are now coordinating efforts to explore practical ways to address the copper concerns. We are exploring the concept of developing a regional copper hull paint mitigation plan through the auspices of the California Marine Affairs and Navigation Conference (CMANC) Working Waterfront Committee.

The City of Newport Beach is currently reviewing what it would take to prepare a work plan for its harbor that would lay out a proposed action plan and schedule. Such a plan would include implementing best management practices, conducting limited site specific studies, and performing community outreach. In developing such a work plan, we plan to ask for assistance from our Regional Board's staff and from Orange County Coastkeeper. Our intent would be to move forward with collecting additional scientific evidence which would assist us in confirming the dimensions of a possible copper concern, and assist us in prioritizing actions. We understand the Port of San Diego has had success with its hull cleaning program, and we would like to use this template for implementing a similar program in Newport Harbor. We are already in touch with the California Professional Divers Association to explore ways to set up training on proper hull cleaning methods in Newport Harbor.

The City is keenly aware there is a level of skepticism regarding the current CTR standard which complicates and questions the need to reduce copper hull paint emissions. The City supports USEPA's work to approve the Biotic Ligand Model (BLM) for determining copper toxicity in salt water and it is our understanding this approval is expected shortly. This

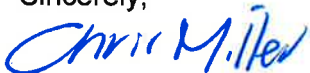
model would provide accurate site specific information which would provide a solid basis for the Water Board's outreach efforts to enlist the boating community's cooperation.

We understand the California Department of Pesticide Regulation (DPR) is working with paint manufacturers to develop copper paints with lower leach rates, and new hull paints could be tested and approved for use within two years. The City is also supportive of the DPR's recent efforts to determine and specify maximum copper leach rates in hull paints. The likelihood of implementing a successful copper reduction program will be qualitatively enhanced if DPR's recommendations can be codified for the entire State. The City has serious doubts about its legal authority, as well as the cost to impose demands on shipyards, boat owners or hull cleaners solely based on a harbor specific Water Board TMDL.

Given the ambiguity associated with the actual levels of copper in the water column from hull paints that result in a harmful toxicity level in the surrounding waters, and that these copper hull paints are currently approved for use in both the State and Country, we recommend that flexibility be built into Marina del Rey's TMDL program to allow timely and coordinated actions by southern California marinas to implement common sense BMPs while DPR and EPA complete the important work they are engaged in. With support from State and Federal agencies, we can gain the confidence and support of the boating community to implement the necessary measures to protect our valuable marine resources.

Thank you for your considered actions on this challenging issue.

Sincerely,



Chris Miller  
Harbor Manager  
City of Newport Beach

cc: Gary Hildebrand, Charlotte Miyamoto – Los Angeles County Beaches and Harbor  
Jim Haussener – CMANC  
Karen Rhyne – Recreational Boaters of California  
Joanne Schneider, Wanda Cross, Linda Candelaria – RWQCB, Santa Ana  
Garry Brown, Ray Hiemstra – Orange County Coastkeeper  
Dave Webb, Bob Stein – City of Newport Beach