



I own and sail a boat out of marina del Rey and I did not receive the LA Board's notice of the proposed TMDL Amendment. The Notice itself is deficient because it referred only to "technical changes" to the TMDL and did not warn boaters, anchorages or other interested parties that the LA Board intended to impose onerous financial burdens and hold boaters and anchorages legally liable for pollutants in the Marina. This is a fundamental denial of due process rights by the LA Board. It is illegal for the LA Board to Designate Boaters as Responsible Parties for Copper Pollution. The LA Board is not authorized by State or federal law to designate individual boaters (so called "non-point sources") as responsible for copper pollutants in the Marina in a TMDL Amendment. The LA Board overstepped its authority and is inviting litigation if this goes forward. In addition:

The LA Board Did Not Do a Thorough Scientific Analysis

The LA Board failed to do site specific sampling and analysis of the water at different sites in Marina del Rey to determine actual copper levels. They also failed to consider Marina del Rey's unique characteristics as a man-made pleasure boat harbor. They failed to consider that copper binds to the considerable amount of organic matter in the marina, which renders it harmless. They also failed to do a meaningful environmental analysis of the impact from invasive species that will result from eliminating copper biocide paints.

The LA Board's Economic Analysis is Deeply Flawed

The LA Board greatly underestimated the negative economic impact of its regulation on boaters, anchorages and the local business community. Boats in Marina del Rey are stripped maybe every 20-40 years, definitely not every 7-10 years as the LA Board claims. They seriously underestimate the lifecycle costs to apply and maintain non-biocide paints, which our local boatyard experts estimate to be at least \$65,000 on average over 10 years. The Board says that its "unlikely" for boaters to leave Marina del Rey because of the new regulation. They are wrong. Would I seriously consider leaving the marina instead of staying, incurring these costs and facing legal liability? Absolutely.

Compliance Is Infeasible

A 10 year deadline imposed by the Board for compliance is practically impossible to meet and much more aggressive than what was implemented in San Diego's Shelter Island, a significantly smaller body of water with much fewer boats. Our two local boatyards do not have the capacity to strip and apply non-biocide paints to all boats within 10 years. Many boaters simply will not switch to non-biocide paints that are more expensive, of unproven durability, and require more frequent cleaning. In conclusion, the LA Board took too many shortcuts to get to the result they had preordained. They violated the due process rights of stakeholders, skimmed on science, did

an incomplete economic analysis and overstepped their authority. I formally request that the State Board reject the TMDL Amendment as currently drafted and to send it back to the LA Board for further study and meaningful consultation with stakeholders. Sincerely, Copy to: Concerned Citizens of Marina del Rey Cmichaels90292@gmail.com SAMPLE LETTER for boaters who received LA Board November Notice: Jeanine Townsend, Clerk to the Board State Water Resources Control Board P.O. Box 100, Sacramento, CA 95812-2000 (mail) 1001 I Street, 24th Floor, Sacramento, CA 95814 (hand delivery) Email: commentletters@waterboards.ca.gov Subj: Opposition To Proposed Amendment to the Los Angeles Regional Basin Plan To Revise the Total Maximum Daily Loads for Marina del Rey Toxic Pollutants I own a boat anchored in Marina del Rey and am opposed to the proposed TMDL Amendment by the Los Angeles Regional Water Quality Control Board (Board) for the reasons stated in this letter.

The Board's Notice Fails The Due Process Test

Although I may have been on the mailing list to receive notice of the proposed TMDL, I don't recall seeing it and I certainly would not have realized the importance of the notice because it referenced only "technical changes" to the TMDL. There was never any warning in the notice about the onerous burdens that would be placed on boaters, such as naming us as "Responsible Parties" and thus liable for copper pollution in the Marina. By failing to ensure that affected parties were adequately and timely notified, the Board denied stakeholders the right to be heard. This is a fundamental denial of due process and it denied boaters, anchorages and other interested parties with the opportunity to provide meaningful input in the development of the TMDL Amendment.

This Regulation puts the Marina del Rey Community in Jeopardy

Litigation is rampant in California. We all know that, and I don't want to be part of an environmental lawsuit because the Board unilaterally says that I'm the "Responsible Party" just because I keep a boat in Marina del Rey. Questions of liability should be established by an impartial judge, not a regulatory agency in the context of a TMDL Amendment. I've only used State approved copper based paint products on my boat and now the Board is telling me that I have a choice to make: Register for a \$1,094 Waste Discharge Permit, pay \$8,000 or more to strip and paint my boat, incur more than double the amount of cleaning costs, incur compliance costs, be named a "Responsible Party" for pollutants, risk litigation, and put my property into legal jeopardy --- or, leave the Marina so I won't be subject to these onerous burdens and legal jeopardy. The Board says that its "unlikely" for boaters to leave Marina del Rey because of the new regulation. Would I seriously consider leaving the Marina or selling my boat under these circumstances? Absolutely.

Invasive Species

The Regional Board failed to do a meaningful site specific environmental analysis of the increase in invasive species that will result from eliminating copper bio-cide paints. The Board stated that "adverse environmental effects are acceptable" including the "increased growth of fouling

organisms and invasive species" as a result of using non-copper based paints. Copper biocides have worked well over the decades to reduce the transport of invasive species. Eliminating this protection could have disastrous consequences. Non copper paints will foster the growth of biofilms on hulls, which harbor harmful bacteria and carbon, and which cause increased drag, resulting in the burning of more fuel and discharge of more emissions into the marina. This, plus the dredging the Regional Board wants could seriously threaten the delicate ecosystem of our marina, create new, unknown risks and outweigh the potential benefit from banning copper paint.

The Board's Economic Analysis Is Wrong

Based on personal knowledge, boats are stripped every 20-40 years in Marina del Rey... and not the 7-10 years stated by the Board. I don't know where they got that number, but it's wrong. In my own case, I am not planning to strip my boat for another [20+] years, well beyond the 10 year compliance period. But under the Amendment, I'm facing paint stripping costs, a doubling of cleaning costs, the registration of a Waste Discharge Permit at a current cost of \$1,094, potential compliance, enforcement and legal challenges. The Board's Economic Analysis was prepared by someone who clearly doesn't understand boating in Marina del Rey, or the potential costs of this ill-advised regulation.

The Board's Actions Are Illegal

What's troubling to me is that an unelected, unaccountable board is undertaking to mandate new regulations, name "responsible parties" in a TMDL and create for itself the ability to order remedial action, require permits, impose fines on citizens, harm our local economy and effectively take away our property. The Board is misusing its power to impose an unfair regulation that is more costly, more burdensome, and much harsher than what was approved for San Diego's Shelter Island. The Board has no authority to name "Responsible Parties" in a TMDL. Its actions are outside the law and not authorized by statute or case law. If this Board can ignore the people, the law, economics, science and common sense, what's next? The State Water Control Board should reject the TMDL Amendment.

Sincerely,
Harold Schapiro