

The City of Bellflower

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16600 Civic Center Drive, Bellflower, CA 90706

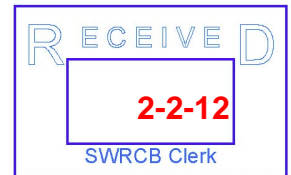
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Via e-mail to: commentletters@waterboards.ca.gov

February 2, 2012

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Re: Comments on Proposed Resolution approving an Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a TMDL for toxic pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters

Dear Ms. Townsend:

The City of Bellflower (City) appreciates the opportunity to provide written comments on the revised Staff Report and revised Resolution for the above-captioned item ("Harbor TMDL") as reflected in the January 25, 2012 version of the Resolution.

The City continues to have concerns that are unresolved by the language of the adopting Resolution as follows:

1. The Resolution indicates that the Regional Board could reconsider the fish tissue targets in the future, but only after "making significant progress toward achieving the final allocations." As detailed in our original comments, we do not believe the final allocations are attainable or appropriate targets. The City believes that it is inappropriate to require "significant progress toward achieving" allocations before the reconsideration of fish tissue targets.
2. The revised adopting resolution states that the TMDL sediment targets "are not intended to be used as 'clean-up standards' for navigational, capital or maintenance dredging or capping activities." This language does not clarify that they should not be used as targets for remedial dredging activities. We respectfully request adding the word "remedial" to this sentence.
3. The language of the revised adopting resolution does not change the primary targets of the TMDL and does not appear to provide alternative means of demonstrating compliance for NPDES permittees. The TMDL targets, as discussed above, are based upon ERLs (for bed sediment) and Fish Contaminant Goals (FCGs for fish tissue), and each of these are discussed separately below:

Page 1 of 2

Ms. Jeanine Townsend
February 2, 2012
Page 2 of 2

a. Sediment targets. The loading capacities, load allocations, and wasteload allocations of the TMDL still are not based on the Board's established Sediment Quality Objectives (SQO) Policy. Although the language of the adopting resolution states that "compliance may be demonstrated using the direct effects SQO assessment approach" that approach is applicable to bed sediments, not to stormwater, MS4, and other discharges regulated by NPDES permits. We respectfully request the addition of language to clearly provide a mechanism for NPDES permittees to show compliance using the SQO Policy.

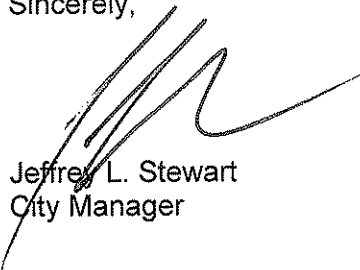
b. Fish tissue targets. The language of the adopting resolution references Phase 2 of the SQO Policy (i.e., the human health portion of the SQO Policy that is currently in development) and indicates that compliance may be demonstrated using the "indirect effects SQO assessment methodology." The adopting resolution also acknowledges "the Los Angeles Water Board's intention to utilize the assessment methodology developed as Phase 2 of the State's SQOs to determine compliance with the final 'indirect effects' sediment allocations." We respectfully request that, the TMDL itself be returned to the Regional Board for reconsideration due to its failure to reference the Phase 2 SQOs for human health.

4. Our City is one of those which entered into a Consent Decree with US EPA and the State of California that protects us from any legal or administrative action to force us to conduct dredging or remedial activities in the Harbor areas or in the Dominguez Channel, the Consolidated Slip, the Torrance lateral or the Kenwood drain. We believe that the language in the proposed revised staff report remains contrary to the terms of the Cities Montrose Consent Decree insofar as it causes the State Board to designate any city as a responsible party in the TMDL for sediment removal/dredging activity, if that City is a party to the Consent Decree and paid funds to address sediment contamination.

For the reasons detailed above, the City continues to request that the State Board remand the Harbor TMDL to the Regional Board so that the fundamental flaws with the scientific foundation of the TMDL can be addressed and resolved.

If you have any questions regarding this letter, you may contact Bernardo Iniguez, Environmental Services Manager, at (562) 804-1424, ext. 2233.

Sincerely,



Jeffrey L. Stewart
City Manager

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