

Heal the Bay

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Chairman Hoppin and Board Members
State Water Resources Control Board
1101 I Street, 24th Floor
Sacramento, CA 95814
Sent Via Email [commentletters@waterboard.ca.gov]



Re: Consideration of a proposed Resolution approving an amendment to the Water Quality Control Plan for the Los Angeles Region to incorporate a total maximum daily load for toxic pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters.

Dear Chair Hoppin and Board Members:

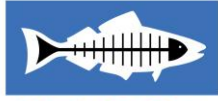
On behalf of Heal the Bay, we submit the following comments on consideration of a proposed Resolution approving an amendment to the Water Quality Control Plan for the Los Angeles Region to incorporate a total maximum daily load for toxic pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. As requested in the public notice, we limit our comments to the strike-out and underline changes in the Resolution. We appreciate the opportunity to provide comments. Of note, we submitted additional comments on this matter on October 21, 2011.

Fish Tissue Targets should be met at the end of the compliance period.

The Draft Resolution discusses compliance determination through the SQO process.

5. "The State Water Board finds that the TMDL is consistent with the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (SQO – Part 1) through the application of the narrative SQO to protect aquatic life ("direct effects" SQO) and narrative SQO to protect human health ("indirect effects" SQO). The State Water Board finds that the use of sediment quality guidelines to establish numeric targets in the TMDL is necessary to meet federal requirements, but that compliance may be demonstrated using the direct effects SQO assessment approach and, once developed, the indirect effects SQO assessment methodology. The State Water Board also finds it appropriate to use the direct effects SQO assessment approach to prioritize contaminated sediment management as part of TMDL implementation."

The Resolution should clarify that fish tissue targets must be met to achieve TMDL compliance. Currently, the TMDL contains no waste load allocations for fish tissue. However as you know, the 303(d) list includes separate listings for fish tissue. We realize that the TMDL aims to address these listings by addressing sediment contamination. However, beneficial uses cannot be restored if fish tissue remains impaired after the implementation of the TMDL is complete. Thus, the State Board should clarify that meeting fish tissue targets within the compliance timeframe is a mandatory element of compliance with the TMDL. Also of note, the State Board should not suggest a yet-to-be-established Phase of the SQOs as a means of compliance. That is premature and inappropriate.



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Implementation actions should be revisited prior to exploring implementation deadlines and/or numeric targets.

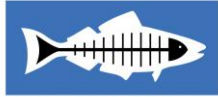
The Draft Resolution states that “...if the Los Angeles Regional Water Board determines that implementation actions to achieve the “indirect effects” sediment allocations may not achieve the fish tissue targets, ...the Los Angeles Water Board will work with stakeholders to determine the best course of action. This may include revisiting the implementation schedule to achieve the fish tissue targets and/or revising, if appropriate, the numeric targets.” Instead, the Resolution should focus on Regional Board staff reviewing implementation actions throughout the entire compliance period to ensure that they are appropriate and sufficient. If the implementation actions are not sufficient, and therefore sediment allocations are not achieved, the responsible parties would be out of compliance with the TMDL. It is inappropriate at this time, and disingenuous to the implementation of this TMDL, to suggest that non-compliance with fish tissue targets will lead to a revisiting of the schedule and numeric targets.

As discussed previously, the TMDL should contain concrete implementation milestones to ensure existing impairments are addressed in a timely manner. For instance, one third of the hotspots identified in the Contaminated Sediment Plan should be cleaned up within Phase I of the Implementation period, and the remaining two thirds should be remediated ten years into TMDL implementation. This would ensure responsible parties will be on the path to meet sediment targets within 15 years.

The Regulatory Agencies and Responsible Parties should collaborate with USEPA on all Special Studies.

The Draft Resolution outlines various special studies that may be undertaken to increase “the scientific understanding of the impairments...” The Resolution should note that any special studies be conducted in close collaboration with USEPA. Due to the proximity of the PV Shelf Superfund site, USEPA has already undertaken or is planning to undertake some of the potential special studies that have been highlighted in the Resolution. To pursue separate studies on the same topic would be short-sighted and a waste of resources. For example, USEPA already studied aspects of fish contamination that should be considered:

Skin-on fillets had the lowest increase in PCB and DDT concentrations compared to skin-off fillets, averaging approximately 6 to 7 times the DDTs and PCBs found in associated skin-off fillets. Skin-on fillet DDT and PCB concentrations for individual fish ranged between a factor of 1 and 20 times the skin-off fillet...Viscera and “remainder” samples had similar, but greater, increases in PCB and DDT concentrations compared to skin-off fillets, averaging approximately 11 to 17 times the DDTs and PCBs found in associated skin-off fillets, depending on contaminant and component. For individual fish, DDT and PCB concentrations in viscera and “remainders” ranged between a factor of 1 and approximately 40 times the skin-off fillet. The results suggest that whole fish have concentrations of PCBs and DDTs that are generally 8 to 10 times higher than the fillet concentrations.



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(U.S. EPA and Montrose Settlements Restoration Program (MSRP). 2003. Palos Verdes Shelf "Fish in Ocean" Sampling & Analysis Project Quality Assurance Project Plan. April 10, 2003.)

In addition, USEPA is currently:

- studying fish movements in and around the geographic area of concern of this TMDL;
- implementing a fish consumption survey from Santa Monica Pier to Seal Beach Pier;
- studying the linkage between contaminated sediment and fish tissue;
- considering a food web model for the fate and transport of DDT and PCBs; and
- studying the sediment transport along the Southern California Bight, as it relates to PV Shelf.

In sum, the proposed special studies cannot be done without close collaboration with USEPA.

I urge the State Board to clarify the Resolution as discussed above. Thank you for your consideration of these comments.

Sincerely,

Kirsten James
Water Quality Director