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Catherine H. Reheis-Boyd
President

October 28, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (mail)
commentletters@waterboards.ca.gov

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

Dear Ms. Townsend,

The Western States Petroleum Association (WSPA) is a non-profit trade association representing twenty-seven companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Arizona, Nevada, Oregon, Washington and Hawaii. WSPA member organizations have facilities located adjacent to the Dominguez Channel or its tributaries (e.g., Torrance Lateral), and would be among those affected by the Harbor TMDL.

As requested in the Notice of Opportunity to Comment, these comments (a) pertain to the final version of the Basin Plan Amendment adopted by the Los Angeles Regional Water Quality Control Board, (“Regional Board”) and (b) detail why and in what manner WSPA believes the Regional Board’s response to comments is inadequate or incorrect.

As the Board is aware, WSPA has participated in water quality issues for over two decades. WSPA appreciates the opportunity to comment upon the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants Total Maximum Daily Loads (“Harbor TMDL”), which was adopted by the Regional Board on May 5, 2011.

Our detailed responses to the Regional Board’s Responses to Comments can be found in the table attached to these comments. We would like to highlight several key points in this brief letter.

1. **Substantive and materially important changes were made to the TMDL at the adoption hearing after the close of all opportunity for public comment.** The specific, troublesome

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change that was made reads as follows: “If at any point during the implementation plan, monitoring data or special studies indicate that load and waste load allocations will be attained, but fish tissue targets may not be achieved, the Regional Board shall reconsider the TMDL to modify the waste load and load allocations to ensure that the fish tissue targets are attained.”

This change indicates that the Regional Board may alter the TMDL requirements at any time during the implementation period. As noted in previous comments, the requirements of the TMDL, including how it would be implemented in permits and what would be required of stakeholders to demonstrate compliance with the TMDL, are factors that are already exceedingly difficult to understand. The new language appears to make the requirements that may be imposed upon regulated entities even more problematic by suggesting a moving target.

As detailed in the attached table of comments, this change is all the more troubling because fish within the Harbor may be geographically wide ranging (such that pollutant concentrations in fish may well be beyond the control of parties regulated by this TMDL), and because the fish tissue targets of the TMDL are based upon OEHHA’s “Fish Contaminant Goals,” which were developed “without regard to economic considerations, technical feasibility, or the counterbalancing benefits of fish consumption” (OEHHA, 2008). The fish tissue targets are thus far more stringent than necessary to “best promote the overall health of the fish consumer” (see also OEHHA 2008, and attached detailed comments).

Recommendation: REMOVE the added language. If the Board wishes to incorporate new data into a TMDL, then the entire TMDL process should be re-initiated so that the entirety of data collected up to that time as well as efforts that have been undertaken by sources can be adequately considered.

2. **Application of toxicity targets as numeric effluent limitations, or to stormwater discharges, is inappropriate.** In our comments to the Regional Board, WSPA raised a number of technical and scientific concerns associated with the application of the toxicity allocations as effluent limitations generally, application of chronic toxicity tests to short-term discharges such as stormwater, and application of chronic toxicity tests to effluent rather than receiving water samples. WSPA also objected to the way in which the interim toxicity allocation was calculated, as it was calculated as an average value for receiving water samples, but would be applied as a never-to-be-exceeded limit for individual effluent (source) samples. The Regional Board has not addressed many of the technical or practical concerns raised in our comments, as detailed in the attached table.

Recommendation: Initiate a continuing effort to review as appropriate, and incorporate as necessary, guidance on use of chronic toxicity tests **prior to inclusion** in a TMDL. Should new data warrant the use of chronic toxicity testing, such new data should be considered within a new TMDL rule-making effort.

3. **The Harbor TMDL is contrary to the State’s Sediment Quality Objectives Policy.** The State Water Board explicitly considered and rejected the future use of Sediment Quality Guidelines, such as ERLs and TECs, when it adopted the Sediment Quality Objective (SQO) Policy in 2008. That policy was approved by USEPA and became effective on August 25, 2009. The SQO Policy recognizes that no individual line of evidence (such as pollutant sediment concentrations) “is sufficiently reliable when used alone to assess sediment quality impacts due to toxic pollutants” (SQO Policy at p. 7).

The SQO Policy also requires a “stressor identification” step to identify if the impairment is caused by pollutant(s), and, if so, which pollutant(s) are responsible for the impairment. The Harbor TMDL uses Sediment Quality Guidelines as TMDL targets, and fails to perform the stressor identification process required by the State’s Policy. Thus, the Harbor TMDL may regulate pollutants that are not contributing to impairment and, more importantly, by failing to identify responsible pollutants, the Harbor TMDL likely fails to require implementation measures that could result in attainment. Because the Harbor TMDL targets and allocations are not based upon the State’s SQO policy, the Harbor TMDL fails to be scientifically supported and is therefore legally questionable.

Recommendation. Evaluate sediment quality using the SQO Policy and conduct stressor identification prior to establishing TMDL targets.

We believe that the inclusion of the factors identified above adversely impact the TMDL process in the absence of any demonstration that inclusion of those factors will improve receiving water quality. Hence, WSPA recommends that the State Water Board should not adopt the Harbor TMDL in its current form, but, should it choose to adopt the Harbor TMDL, add language to the adopting resolution specifying (1) that permits shall not be written to include requirements based on the TMDL until such time as the TMDL has been amended with targets and allocations based upon the SQO Policy, (2) that chronic toxicity targets shall not be used as effluent limitations for stormwater discharges, and (3) that the new sentence specifying that the TMDL may be reopened at any time based on non-attainment of fish tissue targets be removed from the TMDL.

WSPA appreciates the opportunity to comment upon the Harbor TMDL. Please feel free to contact me at this office or my staff Mike Wang at (626) 590-4905 or via e-mail mwang@wspa.org if you have any questions regarding these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cathy A. Boyd".

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38.2a	<p>WSPA believes that the application of toxicity targets as numeric effluent limits in NPDES permits is inappropriate for several reasons, including that toxicity test results can be influenced by numerous factors other than and in addition to effluent toxicity. For this reason, failure of any single toxicity test should not automatically be considered a violation but rather should trigger further investigation to determine if the effluent is indeed toxic and/or to identify the toxicant(s).</p>	<p>TMDL toxicity targets are applicable to discharges into freshwaters. See also response to comment 21.6.</p> <p>Response to comment 21.6 states "Regional Board staff agrees that effluent limits for specific toxicants can be established by the Regional Board to control toxicity identified under Toxicity Identification Evaluations as interim limits. The Staff Report and BPA are revised to clarify that the interim toxicity allocation shall be implemented as a trigger to prompt Toxicity Identification Evaluations. See response to Comment 14.6."</p> <p>Response to comment 14.6 (which commented upon the interim waste load allocation for toxicity (<2 TUC)) states, in part, "The established interim limits are intended to prevent degradation in water quality from the in current condition [sic]. When the TMDL is adopted and approved by the Regional Board, OAL, State Board, EPA, and becomes effective, <u>the interim limits will be incorporated into the appropriate permits and become enforceable.</u> The Staff Report and BPA have been revised to clarify that the interim toxicity WLA shall be implemented as a trigger requiring additional evaluation (e.g., Toxicity Identification Evaluations)." [emphasis added]</p>	<p>Language was incorporated into the final Basin Plan Amendment as follows: "The fresh water interim allocation shall be implemented as a trigger requiring initiation and implementation of the TRE/TIE process as outlined in US EPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000) and current NPDES permits. The fresh water interim allocation shall be implemented in accordance with US EPA, State Board and Regional Board resolutions, guidance and policy at the time of permit issuance, modification or renewal."</p> <p>While this language clarifies that an exceedance of the 2 TUC interim allocation for toxicity shall trigger the TIE/TRE process, the response to comment 14.6 states that "<u>this interim limit will be incorporated into the appropriate permits and become enforceable.</u>" This language clearly implies that the 2TUC interim limit will be applied as a numeric effluent limitation.</p> <p>We continue to assert that inclusion of this interim toxicity limitation as a numeric effluent limit is inappropriate, for the range of technical reasons raised in our original comment letter and the attachment to that letter. We note that others (see Comments 21.6 and 14.6) have raised both technical and practical concerns related to the implementation of the toxicity allocations as effluent limitations. Although the Regional Board did include some clarifying language regarding the TRE/TIE process, the Regional Board did not specify that toxicity allocations should not be used as effluent limitations (as requested), and the Regional Board did not respond to the technical or practical concerns raised by WSPA or by other parties in any way.</p> <p><u>WSPA requests that the SWRCB clearly specify that that the toxicity allocations are not to be used as effluent limitations within NPDES permits.</u></p>
38.2b	<p>"The Draft TMDL would apply toxicity limits for chronic toxicity to stormwater discharges. As detailed in the attached comment letter, this use of toxicity testing is inappropriate, as it is unsupported by appropriate studies and data collection, and because it is unclear that current chronic toxicity test methods could be applied to stormwater discharges. For example, most methods require the collection of new samples daily for eight (8) days, and most stormwater discharges persist for a much shorter time period."</p>	<p>See response to Comment 19.2. This response states, "...chronic tests endpoint is sub-lethal effects; e.g., reduced reproductive success, growth, etc. Given that short discharge conditions may also cause an adverse sub-lethal toxic effect, it is appropriate to apply chronic toxicity to adequately protect aquatic organisms during all seasons and flow conditions."</p> <p>The response to comment 38.2b also states, "In addition, Staff notes that most methods require the collection of water samples at a single water sampling event, followed by a test which takes 8 days and do not require <i>collections</i> for 8 days." [emphasis in original]</p>	<p>First, it is a fundamental principle in toxicology that toxicity testing involves the frequency, magnitude, and duration of exposure (see USEPA, Technical Support Document for Water Quality-Based Toxics Control, 1991). "In chronic toxicity tests, the exposure duration in the EPA testing protocols is almost always assumed to be the 7-day short-term period..." (USEPA 1991 at p. 4) Although it is theoretically possible to assess chronic toxicity by artificially extending the exposure period (e.g., it is possible in the laboratory to expose a chronic test organism to a test sample for a 7-day period, even if that exposure could not occur in the environment for a short-term storm event), that test result has no toxicological relevance to the condition(s) that may actually occur in the environment. Thus, it is inaccurate and inappropriate to suggest that short discharge conditions may cause an adverse sub-lethal effect when the exposure duration is far shorter than the test duration.</p> <p>Second, it is not recommended practice to conduct a chronic exposure test using a single water sample. USEPA (1991, at p. C-1) notes that the following procedure is used for chronic testing: "... Collect a daily grab sample or a daily composite sample of receiving water from each station. Use a renewal testing method to expose test organisms to the daily samples collected at each station. Use an appropriate number of replicates (10 for Ceriodaphnia) for each sampling station..."</p> <p>USEPA's short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms (4th edition; 2002) reads as follows: "8.3.2 When tests are conducted off-site, a minimum of three samples are collected. If these samples are collected on Test Days 1, 3, and 5, the first sample would be used for test initiation, and for test solution</p>

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			<p>renewal on Day 2. The second sample would be used for test solution renewal on Days 3 and 4. The third sample would be used for test solution renewal on Days 5, 6, and 7.”</p> <p>Thus, USEPA consistently recommends the collection of multiple samples over the relevant chronic toxicity testing time period for valid chronic toxicity tests. The Regional Board's response to comments has also failed to respond to other concerns raised in WSPA's comments (e.g., that sublethal chronic toxicity endpoints were never examined for correlation with instream conditions by USEPA, or that sublethal endpoints for chronic toxicity testing are less reliable than other test endpoints and may not indicate any impact in ambient waters, and so should not be used to determine non-compliance).</p> <p><u>For these reasons, WSPA reiterates its prior recommendation that chronic toxicity testing should never be applied for discharges or conditions that are shorter in duration than the chronic toxicity test period.</u></p>
38.2c	<p>The Draft TMDL calculates an interim limit for toxicity using the “average values” from toxicity tests conducted by the Los Angeles County Department of Public Works. It is inappropriate to use the average of available test data as a measure of current performance that can be applied to a single sample.</p>	<p>“The interim limit is effective at the time the TMDL becomes effective to ensure that water quality is not further degraded during the long implementation period of this TMDL. In fact, recent toxicity data for the Dominguez Channel are below 2 TUc.”</p>	<p>The Regional Board has not stated the time period or number of samples that constitute the “recent data,” and to our knowledge has not made these data publicly available. Without these data, it is not possible to determine if the “recent data” indicate that the 2 TUc interim limit has not been exceeded by any single sample.</p> <p>If, in fact, the dataset is either small (contains few samples) or does not include a representative range of ambient conditions (e.g., dry and wet season samples, dry and wet climate periods, etc.), it would continue to be inappropriate to apply this interim limitation as a value never to be exceeded in any single sample. If the interim limit has been derived as the average value calculated from multiple samples, then, by definition, many of the individual samples in the dataset would have concentrations higher than the interim target. In this case, the interim target should be compared to the average value from multiple samples.</p> <p>Also, as noted below in response to comment 38.3d, toxicity targets should be applied within the receiving waters, not to individual effluent samples. Indeed, it is our understanding that the “recent toxicity data for the Dominguez Channel” collected by the Los Angeles County Department of Public Works are for receiving water samples. Since the available data are for receiving water samples, applying them to effluent samples is not an appropriate way to determine that “water quality is not further degraded.”</p> <p><u>For these reasons, WSPA requests that the State Water Board clearly specify that the interim toxicity limits of the TMDL cannot and will not be used as effluent limitations.</u></p>
38.3d	<p>Toxicity testing should be conducted in the receiving water, but the interim and final toxicity allocations in the Draft TMDL appear to apply to individual effluent samples. This method of application is inappropriate.</p>	<p>“Interim and final WLA will be implemented through NPDES permits (and/or other Board Orders) in accordance with state and federal regulations and guidance. However, the exact manner in which allocations are incorporated into permits is not established at the time of TMDL development, since the means of incorporating the allocations depends in part on the supporting evidence in the permit's administrative record.”</p>	<p>As noted in our comments on comment 38.3c, WSPA understands that available toxicity monitoring data collected by the Los Angeles County Department of Public Works are for receiving water samples. WSPA believes that it is not appropriate to apply numeric effluent limits for toxicity as effluent limitations; toxicity should be evaluated in the receiving water, as the water quality objectives for toxicity specify that “the survival of aquatic life in surface waters, subjected to a waste discharge or other controllable water quality factors, shall not be less than that for the same waterbody in areas unaffected by the waste discharge or, when necessary, other control water” (Basin Plan at p. 3-17). The Basin Plan also specifies that “there shall be no chronic toxicity in ambient waters outside mixing zones” (at p. 3-17), indicating that chronic toxicity should be evaluated within the receiving water.</p> <p>WSPA also notes that it is exceedingly difficult for a discharger to determine from the Harbor TMDL what</p>

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			<p>that discharger may be required to do to comply with the TMDL. WSPA and other stakeholders repeatedly asked the Regional Board how the TMDL might be implemented within permits, and were repeatedly told that Regional Board staff could not determine this, as it would be up to permit writers at the time a permit is issued. WSPA therefore requests that the SWRCB provide clarity with respect to the appropriate application of chronic toxicity limits to stormwater.</p> <p><u>Specifically, WSPA requests that the State Water Board clearly specify that the interim toxicity limits of the TMDL cannot and will not be used as effluent limitations.</u></p>
38.6a	<p>Final salt water column allocations were based upon CTR. WSPA commented that the Staff Report offers no evidence that the use of CTR targets would result in concentrations of these pollutants in sediments that are below the targets of the Draft TMDL...the Draft TMDL does not appear to be based upon best available science, and the procedures of the SQO Policy should be used to establish the pollutants of concern for the Draft TMDL, and then to establish allocations. WSPA also objected to the Regional Board's procedures for calculating limits for PAHs.</p>	<p>(1) Regional Board's response indicated that saltwater water column allocations "are equivalent to CTR chronic criteria for total metals to protect aquatic organisms as well as recognize that total metals will contribute some portion to sediment metal levels via precipitation and settling."</p> <p>(2) See response to Comment 30.13 for changes to PAH targets. Comment 30.13 indicates that the Regional Board modified the TMDL to provide criteria for individual PAH compounds.</p>	<p>(1) WSPA notes that the CTR numbers were not developed in consideration of sediment pollutant concentrations, or with the intent of protecting sediment concentrations. The Regional Board's response provides no evidence that CTR values are intended to or appropriate for this purpose. Thus, the Regional Board's response is inadequate.</p> <p>(2) This change is appropriate.</p>
38.7	<p>WSPA commented that the State's SQO Policy should have been used to determine whether or not sediment quality objectives are exceeded in enclosed bays and harbors; if so, the SQO Policy requires stressor identification to identify whether or not pollutant(s) are responsible for the observed sediment quality objective exceedances, and, if so, to identify which pollutant(s) are responsible for the exceedances.</p>	<p>"Using SQO-Part 1 assessment procedures, staff reviewed sediment triad monitoring results...and found exceedances of sediment quality objectives. More specifically, 5 of 7 sample results were determined to be either clearly impacted or likely impacted. These results provide additional unequivocal evidence that impaired conditions exist within this water body.</p> <p>"Regardless of the State's intention to implement SQOs, the status of SQO data or stressor identification, the finding of impairment under the State's 303(d) list is not negated. Waterbodies which are impaired must have TMDLs developed."</p>	<p>As noted by WSPA and by multiple other stakeholders, the State's SQO Policy requires that the "stressor identification" process be followed to determine (a) if pollutant(s) are responsible for the observed impairment, and (b) if so, which pollutant(s) are responsible for the impairment. See also comment 38.7a, below.</p> <p>Only after the responsible pollutant(s) are identified can appropriate action be determined and implemented. Development of TMDLs prior to stressor identification is premature and will likely result in inappropriate TMDL endpoints and unnecessary management actions. For example, if it is later determined that pyrethroid compounds, and not the compounds regulated by the TMDL, are responsible for the impairment (as has been shown for many other water bodies in the State), the TMDL will have resulted in unnecessary implementation actions to control other pollutants. More importantly, the TMDL will have failed to require implementation measures (e.g., source controls, bans on the use of pyrethroids in affected watersheds) that could result in removal of the impairment.</p> <p>By not following the State's SQO Policy, the Regional and State Water Boards are ignoring their own requirements and failing to implement best available science.</p> <p><u>WSPA recommends that the SWRCB specify in its adopting resolution that TMDL implementation measures be required only after the SQO Policy has been followed and stressor identification is complete and used to adjust TMDL targets and allocations, as necessary.</u></p>
38.7a	<p>"By contrast, the SQG thresholds used in the Draft TMDL (i.e., ERLs and TECs) were developed for use only as screening tools and were never intended for use as standards or regulatory endpoints, and the use of SQGs has been supplanted by the SQO Policy in California."</p>	<p>The Regional Board's response to comments stated that "[t]he ERLs are a protective predictor of toxic effects in sediments. The toxicity predictive ability of ERLs has been tested in the field and when several ERLs are exceeded, the predictive ability is greater. The ERLs provide a readily</p>	<p>The State's SQO Policy became effective when approved by USEPA on August 25, 2009. Many of the TMDLs within the Los Angeles Region that included the use of ERLs were adopted prior to this date. As clearly stated within the SQO Policy itself, one reason the SQO Policy was adopted was because the use of a single line of evidence (LOE), such as pollutant sediment concentration, produced erroneous and misleading results; the SQO Policy was intended to correct and supersede the practice of using SQGs as</p>

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	<p>The WSPA comments also cited portions of the SQO Policy that state that “none of the individual LOE [lines of evidence] is sufficiently reliable when used alone to assess sediment quality impacts due to toxic pollutants.” WSPA concluded that “it is wholly inappropriate to use SQGs (a single line of evidence) to develop TMDL targets or sediment cleanup requirements. The comments also noted that there is no certainty that the pollutants regulated by the Draft TMDL are causing any supposed impairment, and stated that “any additional pollutant(s) that may be responsible for any supposed impairment have not been identified within and will not be addressed by the Draft TMDL.” WSPA requested that the Draft TMDL be amended to eliminate the use of SQGs and to require the application of the State’s SQO Policy.</p>	<p>measurable numeric target that can be used to calculate the TMDL. While multiple lines of evidence will prove useful for assessing sediment, such an approach is not applicable [sic] to the calculation of TMDLs and allocations. The use of ERLs as the numeric targets is consistent with previously adopted TMDLs in the Los Angeles Region...”</p> <p>The Regional Board’s response also noted that “compliance with the TMDL can be demonstrated by achieving the ERLs in the sediment or by demonstrating the protective conditions of ‘Unimpacted’ or ‘Likely Unimpacted’ using the full triad...”</p>	<p>regulatory endpoints.</p> <p>There is much evidence within the record for the SQO Policy, and the SWRCB explicitly considered the continued use of Sediment Quality Guidelines such as ERLs as a CEQA alternative when it adopted the SQO Policy. The SWRCB Staff Report for the SQO Policy examined a number of scientific research articles, and utilized the input of a highly qualified Scientific Steering Committee and peer reviewers, in evaluating and rejecting the use of Sediment Quality Guidelines like ERLs for future use within the State (see, for example, SQO Policy Staff report, September 16, 2008, at p. 5-22).</p> <p>Although the Harbor TMDL does allow one to demonstrate compliance by demonstrating that sediment meets the SQO designations of “Unimpacted” or “Likely Unimpacted,” the process for removing or supplanting the ERLs embedded within the TMDL, and the allocations that are based upon the ERLs, is unclear.</p> <p>Likewise, if it is found in the future that a separate pollutant is responsible for impairment, the process for removing the targets based upon ERLs is unclear. As noted in Comment 38.7, the failure to follow the Stressor Identification process of the SQO Policy means that the TMDL may not be regulating the pollutant(s) that may be causing the alleged impairment within the sediments. When asked at a meeting on February 7, 2011, what would happen if the Regional Board determined that a chemical not regulated by the TMDL was responsible for impairment, Regional Board staff indicated that the responsible pollutant “would be addressed by a separate TMDL,” and that there would be no “automatic updating” of the current Harbor TMDL. The TMDL itself is silent on this point. Thus, we conclude that the ERLs would continue to be applied.</p> <p>Thus, the Harbor TMDL is directly contrary to the State’s SQO Policy, which represents best available science and the law in the State of California. For these reasons, <u>we ask the SWRCB to specify that the targets and allocations of the TMDL shall not be implemented in NPDES permits until such time as the TMDL has been amended to eliminate the use of Sediment Quality Guidelines and made consistent with the State’s SQO Policy.</u></p>
New	<p>Language was added to the TMDL at the close of the adoption hearing, after the close of the public comments, as follows: “If at any point during the implementation plan, monitoring data or special studies indicate that load and waste load allocations will be attained, but fish tissue targets may not be achieved, the Regional Board shall reconsider the TMDL to modify the waste load and load allocations to ensure that the fish tissue targets are attained.”</p>		<p>This language, which was added to the TMDL near the close of the adoption hearing and after all opportunity for public comment had passed, is an important and material change to the TMDL itself. The addition of this sentence in effect means that the TMDL requirements can be changed <u>at any time</u> during the implementation period, including within the interim compliance period. Thus, the requirements that the TMDL imposes upon regulated entities, which were already exceedingly difficult to understand, appear to have become a moving target with the addition of a single sentence.</p> <p>This change is even more troubling because it is well established that fish within the Harbor may range widely to areas outside the Harbor, potentially including more polluted areas like the Palos Verdes Shelf, such that pollutant concentrations within fish tissues are not within the control of the parties regulated by the TMDL. Yet, if fish tissue targets are not achieved, the Regional Board may alter the requirements of the TMDL at any time.</p> <p>Additionally, this change makes the choice of fish tissue targets all the more important. The targets of the TMDL are the “Fish Contaminant Goals” (“FCGs”) proposed by OEHHA, not the more appropriate “Advisory Tissue Levels” (ATLs). FCGs are goals because they do not consider the health benefit achieved by eating</p>

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			<p>fish, while ATLS recognize and consider the health benefits of consuming fish in addition to the risk posed by pollutants. OEHHA's 2008 report (<i>Development of Fish Contaminant Goals and Advisory Tissue Levels for Common Contaminants in California Sport Fish: Chlordane, DDTs, Dieldrin, Methylmercury, PCBs, Selenium, and Toxaphene</i>) states that "FCGs are based solely on public health considerations without regard to economic considerations, technical feasibility, or the counterbalancing benefits of fish consumption," while "Advisory Tissue Levels (ATLs), while still conferring no significant health risk to individuals consuming sport fish in the quantities shown over a lifetime, were developed with the recognition that there are unique health benefits associated with fish consumption and that the advisory process should be expanded beyond a simple risk paradigm in order to best promote the overall health of the fish consumer."</p> <p>The use of FCGs, rather than ATLs, will now, with the late addition of the new language, have consequences that are potentially extraordinarily costly, that may require controls that are unnecessary to "best promote the overall health of the fish consumer," and that may be unachievable.</p> <p>For these reasons, <u>WSPA asks the SWRCB to strike the new sentence in its entirety.</u></p>