

The City of Bellflower

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**Via facsimile to 213-576-6686
and e-mail to: tnghuyen@waterboards.ca.gov**

February 17, 2011

Ms. Thanhloan Nguyen
Los Angeles Regional Water Quality Control Board, TMDL Unit
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

**Re: Comments on Proposed Total Maximum Daily Loads for Toxic Pollutants
in Dominguez Channel and Greater Los Angeles and Long Beach Harbors
Waters**

Dear Ms. Nguyen:

The City of Bellflower (City) appreciates the opportunity to provide comments on the proposed Total Maximum Loads for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbors Waters (proposed TMDLs), which are presently scheduled for consideration by the Los Angeles Regional Water Quality Control Board (Regional Board) at a public hearing on April 7, 2011. The City requests that you give due consideration to these comments and that they be included as a part of the Administrative Record for this item.

Although the proposed TMDLs as written are extremely confusing, they seemingly would apply to virtually every city within Los Angeles County. Yet, we are not aware of any formal public workshops that have been conducted on the purpose and scope of the proposed TMDLs, and our review of the TMDL documentation has raised a series of questions regarding its goals and the obligations to be imposed on the various municipalities as responsible parties under the proposed TMDLs. For this reason, we would ask that the proposed TMDLs not be adopted at this time until the affected local governmental agencies have been given sufficient opportunity to not only fully consider the proposed TMDLs and their impacts, but also to be in a position to have further dialogue with the Regional Board over their necessity and scope.

As such, at this time the City is hereby joining in the legal and technical comments that have been submitted on behalf of the City of Signal Hill, and further provide the following comments for the Regional Board's consideration:

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> Raymond Dunton
Mayor

Scott A. Larsen
Mayor Pro Tem

Randy Bomgaars
Council Member

Dan Koops
Council Member

Ray T. Smith
Council Member

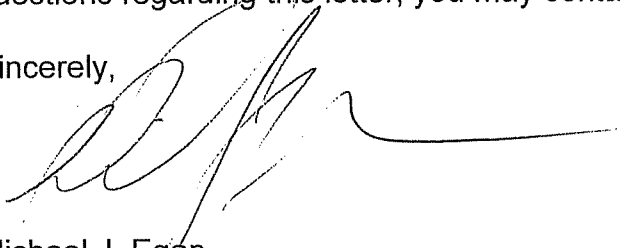
1. The City notes that in 2005 Bellflower was incorrectly included in the draft Los Angeles River Metals TMDL (LAR Metals TMDL) as a responsible party in Jurisdiction Group 2 of that TMDL. Regional Board staff realized the error and removed Bellflower from the LAR Metals TMDL because the City does not discharge into the Los Angeles River Watershed. If modeling data from the LAR Metals TMDL was used for the proposed TMDLs, the City wants to ensure that Bellflower was not incorrectly included as a party to the LAR Metals TMDL.
2. Furthermore, the City of Bellflower, along with the Cities of Lakewood, Paramount and Signal Hill, appear to have been included under the second category of responsible parties for the "Greater Los Angeles and Long Beach Harbors" specifically because the Cities presumably discharge into a nearshore watershed, i.e. apparently because they discharge into saline receiving waters. The proposed TMDLs are unclear in this regard, however, and should not be adopted until there is some basis set forth in the proposed TMDLs that explains the reasoning behind the inclusion of these Category 2 responsible parties in the proposed TMDLs. It is our presumption that these Category 2 cities were included as responsible parties based on the fact that they discharge into the Los Cerritos Channel, i.e., based on the assumption that they therefore discharge into a nearshore watershed. Yet, the term "nearshore watershed" is defined in the TMDL documentation as being a watershed that discharges to saline receiving waters. Because the Los Cerritos Channel does not discharge to any saline receiving waters, and because these Cities do not otherwise discharge into saline receiving waters, none of these Cities should be included within the Category 2 - Greater Los Angeles and Long Beach Harbors list of responsible parties.
3. The City is also very concerned with the significant number of ambiguities in the proposed TMDLs, including what water bodies are to be dredged, and by who, and what requirements are being imposed on the Los Angeles and San Gabriel River cities. For example, the City is unclear as to what its obligations are or even why it has been included within these proposed TMDLs. This is of particular concern to the City given the fact there are existing metals TMDLs for the Los Angeles and San Gabriel Rivers, and given the non-metal pollutants that are referenced in the proposed TMDLs, according to the technical documents prepared on behalf of US EPA, are not believed to be migrating from the Los Angeles and San Gabriel Rivers in any quantities of concern. Accordingly, until this and the many other ambiguities (as identified in the technical and legal comments submitted on behalf of the City of Signal Hill) are addressed, the proposed TMDLs should not be adopted.

4. In addition, the tentative Basin Plan Amendment for the proposed TMDLs lists the Los Angeles River and San Gabriel River metals TMDL Cities as being the third category of responsible parties for achieving compliance with the proposed TMDLs. This category of responsible parties should be deleted, however, for the reasons set forth above, namely that there is no indication that these alleged responsible parties are contributing any significant pollutant loadings to the non-metal impairments, and given that metals TMDLs are already in place for both the Los Angeles and the San Gabriel Rivers.
5. The primary purpose of the proposed TMDLs appears to be to implement a cleanup of the contaminated sediment located in the Los Angeles and Long Beach Harbors. However, the City along with numerous other cities in Los Angeles County, has entered into a federal Consent Decree with the United States and the State of California (including the Regional Board), which federal Consent Decree was first approved by the U.S. District Court in 1993, and was thereafter amended in 1999. This Consent Decree required the payment of \$45.7 million in funds and in-kind services from the settling local governmental agencies, which consideration was to be used, in part, to address the contaminated sediment within the Long Beach and Los Angeles Harbor areas. Thus, the proposed TMDLs appear to be an improper attempt to again require cities to pay to address these contaminated sediments. The proposed TMDLs are inappropriate for this reason, and are inappropriate because Total Maximum Daily Loads cannot lawfully be used as a mechanism to require the removal of contaminated sediment caused by prior releases of hazardous substances.
6. The City also believes that the proposed TMDLs are being adopted without the Regional Board having given any consideration to the various factors set forth under sections 13000 and 13241 of the California Porter-Cologne Act, and specifically without there being any consideration to whether the proposed TMDLs are "reasonably" and "economically" achievable, particularly in light of the "environmental characteristics" of the waters at issue. For example, understanding that the environmental characteristics of the Los Angeles and Long Beach Harbors contain pollutants within sediments that must first be remediated before the waters can be considered in compliance with water quality standards, compliance with the Porter-Cologne Act requirements would very likely result in an entirely different set of TMDLs for these waters.
7. The City is also very concerned about the scant evaluation of the various environmental impacts that will likely result from dredging of the Los Angeles and Long Beach Harbors, along with the lack of consideration given to any feasible alternatives to this project, as required by the California Environment Quality Act. The economic impacts of this project from the dredging portion alone are estimated at \$680 million. This cost is, in and of itself, significant and there does not appear to have been any real evaluation of the potentially significant environmental impacts caused by such a dredging operation, or nor of the likely benefits expected from conducting the dredging.

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We ask that the Regional Board consider the above comments and those submitted on behalf of the City of Signal Hill in its evaluation of the proposed TMDLs, and look forward to working with you on revisions to the proposed TMDLs as necessary to address these and other comments that have been submitted. If you have any questions regarding this letter, you may contact me at (562) 804-1424, ext. 2207.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. Egan', with a long horizontal flourish extending to the right.

Michael J. Egan
City Manager