

February 22, 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 Dominguez Channel and Greater Los Angeles and Long Beach Waters Toxic Pollutants**

Dear Ms. Nguyen:

The City of Rancho Palos Verdes (“City”) submits its comments in connection with the proposed adoption of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants Total Maximum Daily Loads (“Toxic TMDL”), which is presently scheduled for consideration by the Los Angeles Regional Water Quality Control 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.

As a preliminary matter, the City of Rancho Palos Verdes (and many other municipal entities) have spent considerable time evaluating the Board’s January 31, 2011 public notice of an intent to issue an ‘interim’ MS4 permit for the entire Los Angeles Basin, along with incorporating the San Monica Bay Beaches Bacteria TMDL into that ‘interim’ permit. This matter has taken considerable time and attention of the City and its legal and technical consultants.

The Board staff, by introducing at the same time a complex Toxic TMDL and requesting a full review of that separate TMDL by no later than February 22, 2011 for a hearing on the same day (April 7, 2011) as the Board will consider an entire MS4 permit (and incorporated bacteria TMDL) imposes an intolerable burden on the City and its staff. Moreover, most of the TMDL appears to be primarily focused upon the harbor areas of Los Angeles and Long Beach. Thus, it is more than a little surprising to the City of Rancho Palos Verdes, which is a relatively small residential community, that it is suddenly be confronted with the Toxic TMDL and asked to provide meaningful comments on such a TMDL.

The proposed TMDL, as written, is extremely confusing, and yet it would seemingly apply to virtually every city within Los Angeles County, since most cities drain into either the Los Angeles or San Gabriel Rivers at some point. Our limited review of the TMDL documentation has raised a series of questions regarding its goals, as well as over the obligations to be imposed on the various municipalities as responsible parties under the TMDL. For this reason, we would

ask that the TMDL not be adopted at this time until the affected local governmental agencies have been given sufficient opportunity to not only fully consider the TMDL and its impact, but also to be in a position to have further dialogue with the Regional Board over their necessity and scope.

To the extent that the Board maintains the same hearing date (April 7, 2011) as the hearing on the LA Basin MS4 'interim' permit and the incorporation of the Santa Monica Bay Bacteria TMDL into that interim permit, then the City adopts and incorporates by reference the technical comments of the Port of Long Beach. As pointed out in the comment letter filed by that Port, the City feels there are numerous technical difficulties with the proposed TMDL. These difficulties include:

1. As a legal and technical matter, the Board should revise upward all of the numeric targets in the TMDL for those compounds that are described as currently having "targets that are lower than the readily available [laboratory] detection limits." (Attachment A to draft Resolution, p. 21). Otherwise, a responsible party would have to file a report of "non-compliance" as part of the annual reports simply because the current laboratory measurement would always be above the 'numeric target.' While it may be that laboratory detection limits will decline over time, there is absolutely no assurance that this declining level will match the deadlines for compliance by LA River parties currently set forth in Table 7-40.2, which requires submittal of annual monitoring reports within 15 months after monitoring commences. This would subject a municipality such as the City to a lawsuit by a private party for such 'non-compliance' under the Clean Water Act as soon as the TMDL became incorporated into the applicable permit.
2. Rancho Palos Verdes' designated monitoring point appears to be in the salt water portion of the harbor itself. It should be made clear that any samples collected at this point are comingled with water from numerous sources and are not representative of runoff from the city. Legally, the City also objects to the TMDL's concept of 'measuring compliance' for a coordinated monitoring program. Rancho Palos Verdes is a small community which must take advantage of savings afforded by a coordinated monitoring program with other communities in the area. But, to impose liability (or measure 'non-compliance') upon Rancho Palos Verdes for a legacy pollutant such as DDT, dieldrin or chlordane which are 'ubiquitous in the environment' (Attachment A to Resolution at p. 5, "source analysis") that is measured downstream or down gradient from the City is entirely unfair and inconsistent with the Clean Water Act.
3. It appears the methodology for establishing the WLAs for the low density areas of Rancho Palos Verdes was the same as those for the high density residential and industrial/commercial areas of San Pedro. The water quality projections and thus the WLAs should be different on a per land usage as well as a per acreage basis.
4. Areas of Rancho Palos Verdes drain to Machado Lake which is already (or will soon be) covered by a Toxics TMDL. If this area is included, it should be included in a manner similar to the Los Angeles and San Gabriel River drainage areas where the only

requirement is to continue implementing BMPs in accordance with those existing TMDLs.

5. Wording should be inserted into the Tentative Basin Plan Amendment that: samples from the designated monitoring points shall be analyzed for all appropriate constituents.. If a constituent is not detected in more than 75 percent of the samples after a period of 2 to 3 years of monitoring and that any investigative activities do not identify this outlet as a source of this pollutant(s), then future monitoring for this pollutant(s) can be scaled significantly back, and that these upstream permittees will be exempted from future abatement or corrective actions from the Regional Board.

We have been informed that the Dominguez Channel Watershed Management Committee and many other affected municipalities will be submitting comments. Your attention to our comments as well as those of others is appreciated.

Thank you for this opportunity to comment. Please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Carolyn Zehr". The signature is written in a cursive, flowing style.

City Manager