



3151 Airway Avenue, Suite F-110
Costa Mesa, CA 92626
Phone 714-850-1965
Fax 714-850-1592
www.coastkeeper.org

April 22, 2017

Terri Reeder (via email)
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Re: Proposed Newport Bay Watershed Selenium TMDL's

Dear Ms. Reeder.

Orange County Coastkeeper ("Coastkeeper") is a nonprofit clean water organization with the mission to protect and promote sustainable water resources that are swimmable, drinkable, fishable and sustainable. After reviewing the basin plan amendment to incorporate the Selenium TMDL's to the Newport Bay Watershed we have the following comments:

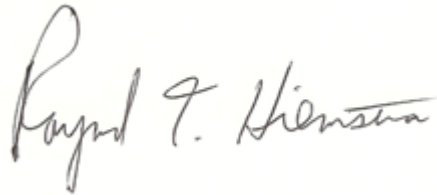
Orange County Coastkeeper opposes the adoption of the basin plan amendment based on the compliance schedule. First of all the amendment compliance schedule does not contain any date certain requirements. All dates in the compliance schedule are based on arbitrary statements including "as soon as possible", "(some time period after) after TMDL effective date", "from approval of Phase I BMP Strategic Plan" and (some time period from Reconsidered TMDL effective date. This lack of date certain requirements leaves the compliance schedule open to interpretation by the various stakeholders and eliminates the ability to hold the dischargers accountable to meeting the requirements of the TMDL's in a timely manner.

Our second concern is the lengthy time from for compliance. While the confusing nature of the compliance schedule makes it difficult to determine a final compliance date, it does state that final waste load allocations must be met 30 years after the effective date of a "reconsidered TMDL". In the schedule the reconsidered TMDL is to be completed no later than 8 years after the effective date of the initial TMDL. Assuming that the initial TMDL becomes effective in 2018 this means the reconsidered TMDL would be effective in 2026 (or later) and final waste load allocations would not need to be met until 2056. This is 39 years after the adoption of the initial TMDL and is unacceptable.

As you are aware Coastkeeper participated in a stakeholder process to develop the Selenium TMDL from 2005 to 2009. In 2010 the Regional Board produced a draft Selenium TMDL with a 19 year compliance schedule. While Coastkeeper had concerns regarding that long timeline we were supportive. The dischargers however rejected that timeline and instead embarked on an extended TMDL revision process strategically designed to push back compliance. Seeing the hopelessness of the extended stakeholder process Coastkeeper formally withdrew in 2011. The development of this TMDL continued, for another seven years, with no participation or input from the environmental community. It should be no surprise that the resulting TMDL has a potential final compliance date well beyond anything that would be acceptable to the environmental community.

With the existing compliance schedule the proposed TMDL will make no real progress in addressing the issue of selenium in the Newport Bay watershed. Considering that this process started in 1995 and the apparent final compliance date is 2056(or later) the real timeline for this TMDL is 51 years. This is unacceptable. The compliance timeline for this TMDL should be no more than 18 years from the originally proposed 2010 adoption date and should contain date certain compliance deadlines.

Thank You,

A handwritten signature in cursive script that reads "Raymond F. Hiemstra". The signature is written in dark ink on a white background.

Ray Hiemstra
Associate Director
Orange County Coastkeeper