



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

JUL 08 2011

Wanda Cross
TMDL Unit
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, California 92501-3348

Dear Ms. Cross:

EPA appreciates the opportunity to review and comment on the San Diego Creek/Newport Bay Organochlorine Compounds (OC) TMDLs. We support the adoption of these TMDLs and the proposed Basin Plan amendment. We still find some issues that require further clarification and offer below recommended language for revising and improving the proposed BPA.

Clarification that not all existing EPA-Established TMDLs will be superseded by the Regional Board OC TMDLs

Resolution 18 (pg. 4) does not explicitly, nor accurately characterize how these RB TMDLs will replace the existing EPA-established TMDLs. Here is language similar to our previous letter (Jan. 2007) that should be used to modify the proposed Resolution language.

Once these Regional Board OC TMDLs are finalized and adopted by State procedures and subsequently receive EPA approval, the TMDLs will supersede the EPA-established TMDLs for corresponding water body-pollutant combinations. Any EPA-established TMDL will remain in effect unless it is included in the proposed Regional Board OC TMDLs. Table A [attached] explains which TMDLs will be in effect upon approval of these TMDLs by EPA.

Wasteload Allocations

EPA expects all wasteload allocations (WLAs) identified in TMDLs to be implemented through corresponding permits; i.e., MS4, construction general permit and Caltrans permit. The proposed TMDLs contain WLAs expressed in two ways - annual average and daily average loads. We recommend the Regional Board provide guidance to future permit writers who will need to thoughtfully translate these WLAs into effluent limitations and associated monitoring requirements. In some instances, annual allocations may be feasibly translated into annual effluent limits (provided ancillary monitoring information is collected such as stream flow rates collected along with chemical analyses for both in-stream and representative end-of-pipe monitoring locations). In other instances, concentration-based allocations are more appropriate for permit implementation. We are providing recommendations to address WLA implementation in various types of permits below.

MS4 WLAs

The current Orange County MS4 permit contains annual average effluent limits. We recommend that when this permit is renewed TMDL and permit staff ensure that the method used to express WLA-based numeric limits is consistent with both the daily and annual average WLAs. The Regional Board should consider incorporating concentration based numeric effluent limits for the MS4 discharges to assist in evaluating compliance. We also recommend the permit include specific provisions detailing where and how compliance will be measured, including statistical procedures for evaluating compliance with WLA-based limits based on required monitoring data. Data from both existing in-stream and representative end-of-pipe monitoring locations within the areas covered by the MS4 permit should be used to evaluate compliance. The permit should explain how in-stream and end-of-pipe data will be used to associate pollutant levels measured in-stream with those measured in stormwater discharges.

Construction and Caltrans WLAs

The construction WLAs will need to be implemented pursuant to the TMDL implementation provisions in the applicable statewide construction general and Caltrans permits. Solely mass-based allocations would be difficult to implement through these permits because flow data is not likely to be collected and mass loadings are therefore difficult to measure. Thus for these types of permits EPA encourages numeric effluent limits that are concentration based as compliance can be more easily measured. Compliance is optimally evaluated via samples collected at end-of-pipe compared against a concentration based effluent limit.

Nurseries WLAs

These TMDLs have identified WLAs for nurseries as pollutant sources within San Diego Creek watershed. The Regional Board has appropriately issued Waste Discharge Requirements (WDRs) to these nurseries. Similar to the general permits described above, we encourage concentration-based numeric effluent limits for these sources when these WLAs are incorporated into WDRs. Compliance may be optimally evaluated via samples collected at end of pipe for these permits.

Monitoring

The proposed TMDLs Implementation Tasks and Schedule (Table NB-OCs-13) describes revising the regional monitoring program. Given the extended delays associated with Regional Board adoption of these TMDLs, EPA wishes to remind the Regional Board and relevant stakeholders that we expect continued collection of organochlorine monitoring results, without being contingent on selenium monitoring or adoption of the selenium TMDLs. See Newport Bay Watershed Executive Committee Staff Report from April 21, 2010 which states that the Toxicity Reduction and Investigation Program (TRIP) activities for organochlorine compounds will resume once the Selenium TMDL is adopted by Regional Board (2010, pp.13).

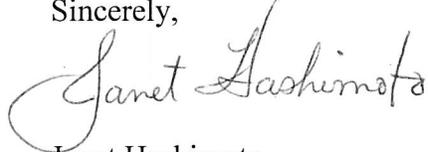
Final TMDL Attainment Date¹

This proposed BPA has modified the final date to be “achieved no later than (seven years from the date of OAL approval for this BPA).” EPA notes that this language is not consistent with other TMDLs going through the State approval process. Typically the “EPA Approval Date” is used as the starting point for implementation plan timelines.

¹ “TMDL attainment” is the preferred term since “compliance” is only applicable to NPDES permits or WDRs.

We urge the Regional Board to adopt these TMDLs as these OC TMDLs have been repeatedly delayed. We appreciate your staff's hard work on these TMDLs and look forward to Regional Board adoption scheduled next week. If you have any questions concerning these comments, please call me at (415) 972-3452 or Valentina Cabrera Stagno at (415) 972-3434.

Sincerely,

A handwritten signature in cursive script that reads "Janet Hashimoto". The signature is written in black ink and is positioned above the printed name.

Janet Hashimoto

Attachment

cc: Kurt Berchtold, Executive Officer

Table A. Waterbody-pollutant combinations for which Organochlorine Compounds TMDLs were established by USEPA (2002) and Regional Board (2007)

<i>Waterbody</i>	<i>TMDLs Currently In Place</i>	<i>TMDLs that will be in Place upon Approval of these State OC Pesticide TMDLs</i>	
		USEPA	Regional Board
San Diego Creek and tributaries (includes San Diego Creek Reaches 1 and 2 and Peter's Canyon Channel)	Chlordane, Dieldrin, DDT, PCBs, Toxaphene	Dieldrin	DDT, Toxaphene, PCBs (informational), Chlordane (informational)
Upper Newport Bay	Chlordane, DDT, PCBs	--	Chlordane, DDT, PCBs
Lower Newport Bay	Chlordane, Dieldrin, DDT, PCBs	Dieldrin	Chlordane, DDT, PCBs
Rhine Channel	Chlordane, Dieldrin, DDT, PCB	Chlordane, Dieldrin, DDT, PCB	--