



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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October 27, 2011

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P O Box 100
Sacramento, CA 95812-2000

Dear Ms Townsend

COMMENT LETTER – MACHADO LAKE PESTICIDES AND POLYCHLORINATED BIPHENYLS TOTAL MAXIMUM DAILY LOAD

Thank you for the opportunity to comment on the proposed Amendment to the Water Quality Control Plan for the Los Angeles Region to incorporate Machado Lake Pesticides and Polychlorinated Biphenyls Total Maximum Daily Load. Enclosed are comments submitted on behalf of the County of Los Angeles

We look forward to your consideration of our comments. If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov

Very truly yours,

GAIL FARBER
Director of Public Works

A handwritten signature in blue ink that reads "Gary Hildebrand".

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

El:jtz

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Enc.

cc: Chief Executive Office (Dorothea Park)
County Counsel (Judith Fries)

PLEASE REPLY TO:



**COMMENTS OF THE COUNTY OF LOS ANGELES
ON THE PROPOSED MACHADO LAKE PESTICIDES AND POLYCHLORINATED
BIPHENYLS TOTAL MAXIMUM DAILY LOAD**

1. Proposed TMDL should include a mass-based compliance option for stormwater discharges

The proposed TMDL's Waste Load Allocations (WLAs) are expressed only in terms of concentrations and without a mass-based alternative. This approach is not appropriate because it would discourage the use of Low Impact Development (LID) best management practices (BMPs) or other infiltration BMPs favored by the State Water Board and the United States Environmental Protection Agency (USEPA). A concentration-only approach also is unjustifiably inconsistent with other toxic pollutant TMDLs in the Los Angeles Region.

LID and infiltration BMPs are designed to reduce runoff volume as opposed to pollutant concentration. Thus, by using a concentration-only compliance approach, the proposed TMDL would discourage the use of LID or other infiltration BMPs, because dischargers would get no credit for reducing the amount of runoff. In September 2011, the County submitted a multi-pollutant implementation plan to the Regional Board in response to the Machado Lake Nutrient TMDL (Regional Board Resolution No. R08-006). The Machado Lake Nutrient TMDL includes a mass-based compliance option; thus, the implementation plan was designed to address multiple constituents of concern, including nutrients, pesticides, and PCBs, in an integrated manner and primarily using infiltration BMPs. Adopting the Machado Lake Toxics TMDL without a mass-based compliance option would seriously undermine the County's multi-pollutant implementation strategy already underway.

The proposed concentration-only approach is also not consistent with other toxic pollutant TMDLs in the Los Angeles Region, including those for Marina del Ray Harbor (Regional Board Resolution No. 2005-012), Ballona Creek Estuary (Regional Board Resolution No. 2005-008), and Colorado Lagoon (Regional Board Resolution No. R09-005). These TMDLs address similar pollutants (pesticides and PCBs) as the Machado Lake TMDL, but unlike the Machado Lake TMDL, each contains WLAs expressed as mass. Further, the Dominguez Channel and Greater Harbors TMDL, which was adopted by the Regional Board around the same time as the Machado Lake TMDL, also expresses WLAs as mass.

In its response to comments, Regional Board staff does not adequately explain the reason for this inconsistency. Instead, Regional Board staff states that the TMDL "establishes concentration-based WLAs and LAs to ensure that the sediments discharged to the lake... do not accumulate pollutants at levels that would exceed water quality standards..." The County agrees with Regional Board staff that pesticides and PCBs are conservative pollutants in the environment. However, we do not agree that a concentration-based approach is in any way more protective of the receiving waters than a mass-based approach. In response to public comment,

Regional Board staff incorporated a three-year averaging period into the concentration-based WLAs. The County appreciates Regional Board staff's consideration of public comments in this regard but believes the three-year average should apply to mass-based WLAs.

Therefore, the County respectfully requests that the State Water Board remand the proposed TMDL to the Regional Board and direct the Regional Board to revise the TMDL to include a mass-based compliance option for stormwater discharges.

2. The TMDL should include a schedule for reconsideration

The proposed TMDL does not include a schedule for reconsideration to evaluate factors specified in the TMDL, such as the science underlying the TMDL, based on available new information.

In its response to comments Regional Board staff states that “[a]t this time, stakeholders have not suggested any necessary special studies or other data gathering projects needed to reconsider the targets and/or allocations.” The County maintains that stakeholder-driven special studies are only one of many factors that may trigger a TMDL reconsideration. For example, new data collected as part of the TMDL’s monitoring requirement may trigger a reconsideration, as would changes in statewide policy or water quality standard that may affect this TMDL. Finally, the fact that stakeholders have not proposed any special studies does not preclude them from conducting studies in the future.

Therefore, the County respectfully requests that the State Water Board remand the TMDL to the Regional Board and direct the Regional Board to revise the TMDL to include a schedule for reconsideration. The reconsideration date should coincide with that for the Machado Lake Nutrient TMDL, which would be September 2016.

3. The numeric targets are well below current analytical methods’ minimum detection limits

The proposed TMDL’s water column numeric targets for the pesticides and PCBs are several orders of magnitude lower than the detection limits of current analytical methods, thus making compliance assessment impossible. Water column numeric targets should be set to levels detectable by current technology until analytical techniques are sufficiently advanced to detect pesticides and PCBs at the lower limits.

In responding to this comment, Regional Board staff states that “it is not appropriate to set a TMDL numeric target based on method detection levels available,...[a]t this time, currently available detection limits will be used to evaluate compliance with the TMDL.” Without waiving the County’s concerns regarding the appropriateness of the TMDL’s numeric targets, we believe this language should be incorporated into the TMDL so Regional Board staff’s intent is clearly reflected. Further, the TMDL should include interim WLAs based on the current available detection limits. It is not

unprecedented to set temporary numeric criteria in this way. For example, for Marina del Rey Toxics TMDL, the Regional Board established interim water column target for PCB of 0.03 µg/L based on the current method detection limit until advances in technology allow for analysis of PCBs at lower detection limits, with the final target of 0.00017 µg/L.

Therefore, the County respectfully requests that the State Water Board remand the proposed TMDL to the Regional Board and direct the Regional Board to revise the TMDL to insert the following language under “Numeric Targets” (BPA Page 2):

...the CTR human health criteria are more stringent than the aquatic life criteria. However, given the inability of current analytical methods to detect concentrations at this low level, current available detection limits will be applied in an interim. These numeric targets will remain in effect until advances in technology allow for analysis of Pesticides and PCBs at lower detection limits.

The TMDL should also be revised to include interim numeric targets based on current MDLs as shown below.

| Pollutant | Water column target, Interim (µg/L) | Water column target, Final (µg/L) |
|------------|-------------------------------------|-----------------------------------|
| Total PCBs | 0.065 | 0.00017 |
| 4,4' DDT | 0.01 | 0.00059 |
| 4,4' DDE | 0.004 | 0.00059 |
| 4,4' DDD | 0.01 | 0.00084 |
| Chlordane | 0.04 | 0.00059 |
| Dieldrin | 0.002 | 0.00014 |