



City of Hidden Hills

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VIA ELECTRONIC MAIL (tnguyen@waterboards.ca.gov)

February 22, 2011

Ms. Thanhloan Nguyen
Los Angeles Regional Water Quality Control Board
TMDL Unit
320 West Fourth Street, Suite 200
Los Angeles, California 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 Hidden Hills ("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 Hidden Hills (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 as the Board will consider an entire MS4 permit (and incorporated bacteria TMDL)(April 7, 2011) 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 Hidden Hills, which has very limited drainage into the upper portion of the Los Angeles River, to suddenly be confronted with the Toxic TMDL and asked to provide meaningful comments on such a TMDL.

Ms. Thanhloan Nguyen
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February 22, 2011
Page 2

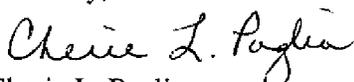
The proposed TMDL, as written, is extremely confusing, and yet it would seemingly apply to virtually every city within Los Angeles County, since most cities drain into either the Los Angeles or San Gabriel Rivers at some point. Yet, we are not aware of any formal public workshops that have been conducted on the purpose and scope of the TMDL, and 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, there are numerous technical difficulties with the proposed TMDL.

As a legal 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.

Legally, the City also objects to the TMDL's concept of 'measuring compliance' for a coordinated monitoring program. Hidden Hills is a small community which must, for fiscal reasons, take advantage of savings afforded by a coordination with other communities in the Los Angeles River. But, to impose liability (or measure 'non-compliance') upon Hidden Hills 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 downgradient from the City is entirely unfair and inconsistent with the Clean Water Act.

Sincerely,


Cherie L. Paglia
City Manager

CLP/dlg