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

June 17, 2009

Man Voong
Los Angeles Regional Water Quality Control Board
320 West 4th St, Suite 200
Los Angeles, CA 90013

Dear Man Voong:

Thank you for the opportunity to comment on the Los Angeles Regional Water Board's draft 2008 Clean Water Act Section 303d list. We carefully reviewed the draft listing decisions and factsheets and we have concluded the vast majority of the assessment determinations are consistent with federal listing requirements. We write to support Regional Board staff recommendations to identify certain impairments as being addressed by a TMDL alternative. We also recommend several additional changes to the draft 303(d) list including: delisting impairments on Wilmington Drain, Los Angeles River Reach 6 and Malibu Lagoon; and corrections regarding prior TMDLs completed for Robert H Meyer Memorial Beach, Fox Barranca and various reaches of Calleguas Creek.

Delistings from the 303(d) list

EPA supports staff recommendations to delist Wilmington Drain ammonia and requests that Regional Board staff consider delisting this waterbody for copper and lead. The City of Los Angeles has collected thirty-three samples from 2007 to 2009 in this waterbody and two additional samples were collected by the Regional Board in that timeframe. The overall record indicates only two excursions above the standard for copper and zero excursions above the standard for lead. We urge staff to evaluate these monitoring results and review the assessment decisions for either of these metals in Wilmington Drain. Additionally, EPA requests that Regional Board staff consider delisting three volatile organic compounds (TCE, PCE and 1,1-DCE) on Los Angeles River Reach 6. The City of Los Angeles has collected forty samples from 2006 to 2007 in this reach. Monitoring results for trichloroethene (TCE), tetrachloroethene (PCE) and 1,1-dichloroethene (DCE) show no excursions above the applicable standard for all non-drinking water purposes. A potential municipal use is associated with this segment of the Los Angeles River. However, both TMDLs and assessments are based on designated and existing uses, not potential uses. This segment is therefore not impaired by volatile organic compounds. For both of these waterbodies EPA has provided the raw data in prior communications.

Additionally, EPA urges Regional Board staff to consider delisting the shellfish harvesting advisory from Malibu Lagoon. The Malibu Creek Watershed Bacteria TMDLs (EPA approval on 1/10/06) addressed impairments for coliform, swimming restrictions and enteric viruses and pointed out that shellfish harvesting was not a designated beneficial use in Malibu Lagoon. This waterbody is therefore not impaired by the shellfish harvesting advisory as indicated on the draft 303(d) list.

TMDL Alternatives

EPA supports the Regional Board staff recommendation to identify Malibu Lagoon benthic community effects listing as being addressed by an alternative to a TMDL. An upcoming Malibu Lagoon restoration project will address this impairment. The Malibu Lagoon Restoration Feasibility Study lists structural and non-structural best management practices that will be implemented during restoration. These measures are expected to improve sediment delivery and increase scour to some areas, increase grain size, and allow more oxygen rich water to bed sediment. This restoration project will commence in 2009 and will be effective at restoring the beneficial uses.

EPA also supports the Regional Board staff recommendation to identify Port Hueneme DDT (dichlorodiphenyltrichloroethane) and PCBs (polychlorinated biphenyls) as being addressed by an alternative to a TMDL. A Port Hueneme Harbor dredging project was initiated in 2008 and is designed to remove contaminated sediments from the harbor, and as a result eliminate the bioaccumulation potential of the DDT and PCBs contaminated sediment and ongoing impacts to the aquatic biota thereby addressing these impairments.

Waterbody pollutant combinations with existing TMDLs, misidentified as requiring TMDLs

Two waterbodies are listed incorrectly in the draft list as requiring a TMDL for impairments that have had TMDLs completed already. EPA requests that Regional Board staff correct the listing for beach closures at Robert H. Meyer Memorial Beach to indicate that a TMDL has already been approved. It was included in the Santa Monica Bay bacteria TMDLs (EPA approval on 6/19/03) which included all of the waterbody pollutant combinations identified in Assessment Unit 48 of the *Heal the Bay v. Browner* consent decree. Additionally, EPA would like Regional Board staff to correct the listings for boron, sulfates and total dissolved solids at Fox Barranca and indicate that a TMDL has already been approved. Many waterbody segments in this watershed were resegmented and renamed. EPA believes these TMDLs were included in one of the reaches in the Calleguas Creek Salts TMDLs (approval on 12/2/08) that covered the waterbody pollutant combinations identified in Assessment Units 3 and 4 of the *Heal the Bay v. Browner* consent decree.

In addition, various reaches of Calleguas Creek are shown in the draft 303(d) list as requiring a TMDL for endosulfan, dacthal, and ChemA. These were identified in the Calleguas Creek Watershed Organochlorine Pesticides and PCBs TMDL (EPA approval on 3/14/06) as "category 2" because they were found to not be causing impairment. They were, however, given load and wasteload allocations set equal to numeric targets for all listed reaches. EPA requests

that Regional Board staff correct the draft 303(d) list to identify these waterbody pollutant combinations as either delisted or having an approved TMDL for the contaminants in question. The Calleguas Creek Organochlorine Pesticides and PCBs TMDLs and the Calleguas Creek Toxicity TMDLs (EPA approval on 3/14/06) addressed all waterbody pollutant combinations identified in Assessment Units 2 and 5 of the *Heal the Bay v. Browner* consent decree and none of those waterbody pollutant combinations should be identified as requiring TMDLs on the State's 303(d) list.

Waterbody pollutant combinations on the 303(d) list that are not impaired

Several waterbody pollutant combinations remain on the draft 303(d) list even though existing TMDL documents contain information supporting findings of non-impairment for these contaminants. For example, during the development of the Marina del Rey Harbor Toxics TMDLs (EPA approval on 3/16/06), Regional Board staff concluded non-impairment due to DDT and dieldrin in these waters. Similarly Ballona Creek was found to be non-impaired due to cadmium as part of the Ballona Creek Metals TMDLs (EPA approval on12/22/05). Apparently, Regional Board staff have not elected to remove these waterbody pollutant combinations from the 303(d) list because, although the data available show a lack of impairment, sufficient data do not exist to meet the State's binomial statistical methodology requirements for delisting. EPA considers these contaminants appropriate for delisting since federal guidelines do not contain minimum sample size requirements for making assessment decisions (EPA 2006 Integrated Reporting Guidance, pp.36-37)

In conclusion, Regional Board staff have produced a sound framework for assessing the condition of its waters. We urge the Regional Board to adopt staff recommendations at the July 2009 board meeting and submit the 303(d) list to State Board shortly thereafter. If you have any questions concerning our comments, please call me at (415) 972-3448.

Sincerely yours,

Peter Kozelka, Ph.D.
303(d)/TMDL Coordinator
Water Division

CC: LB Nye; Deborah Smith

References:

Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act, Diane Regas, EPA Office of Wetlands, Oceans and Watersheds, July 29, 2005

Heal the Bay V. Browner, C. 98-48 25 SBA, March 22, 1999

Moffatt & Nichol. 2005. Malibu Lagoon Restoration Feasibility Study, Final Alternatives Analysis