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Subj: Opposition To Proposed Amendment to the Los Angeles Regional Basin Plan To Revise the Total Maximum Daily Loads for Marina del Rey Toxic Pollutants

I own a boat anchored in Marina del Rey and am opposed to the proposed TMDL Amendment by the Los Angeles Regional Water Quality Control Board (Board) for the reasons stated in this letter.

- The Board's Notice And Actions Fail To Meet Basic Norms of Due Process ---It's A Sham  
The Board claims that it mailed notices of the proposed regulation to boaters in Marina del Rey. I am a boater in the Marina and I did not receive a copy of the Board's notice and was denied an opportunity to make timely comments on the regulations. This is a denial of due process, and a number of my boater friends in the Marina told me that they never received a notice from the Board either.

The Notice, the Notice itself is defective on its face and legally deficient because it referred only to "technical changes" to the TMDL and did not warn me, other boaters, the anchorages or other interested parties that the Board intended to hold boaters and anchorages responsible for pollutants in the Marina.

By failing to ensure that affected parties were adequately and timely notified as to the true nature of the Amendment, the Board denied all of us the due process required by law. The LA Board violated the State Board's Continuing Planning Process mandate to "involve stakeholders" in developing the TMDL Amendment, and it effectively denied all interested parties with the opportunity to have their voices heard. The Board's actions and failures are wrong.

We didn't even know there was a problem with copper in the marina, or that we were going to be asked to both fix and pay for it.

- This Regulation puts the Marina del Rey Community in Jeopardy  
Litigation is rampant in California. We all know that, and I don't want to be part of an environmental lawsuit because the Board unilaterally says that I'm the "Responsible Party" just because I keep a boat in Marina del Rey. Questions of liability should be established by an impartial judge, not a regulatory agency in the context of a TMDL Amendment.

I've only used State approved copper based paint products on my boat and now the Board is telling me that I have a choice to make: Register for a \$1,094 Waste Discharge Permit, pay \$8,000 or more to strip and paint my boat, incur more than double the amount of cleaning costs, incur compliance costs, be named a "Responsible Party" for pollutants, risk litigation, and put my property into legal jeopardy --- or, leave the Marina so I won't be subject to these onerous

burdens and legal jeopardy.

The Board says that its “unlikely” for boaters to leave Marina del Rey because of the new regulation. Would I seriously consider leaving the Marina or selling my boat under these circumstances? Absolutely.

- Invasive Species

The Regional Board failed to do a meaningful site specific environmental analysis of the increase in invasive species that will result from eliminating copper bio-cide paints. The Board stated that “adverse environmental effects are acceptable” including the “increased growth of fouling organisms and invasive species” as a result of using non-copper based paints. Copper biocides have worked well over the decades to reduce the transport of invasive species. Eliminating this protection could have disastrous consequences. Non copper paints will foster the growth of biofilms on hulls, which harbor harmful bacteria and carbon, and which cause increased drag, resulting in the burning of more fuel and discharge of more emissions into the marina. This, plus the dredging the Regional Board wants could seriously threaten the delicate ecosystem of our marina, create new, unknown risks and outweigh the potential benefit from banning copper paint.

- The Board’s Economic Analysis Is Wrong

Based on personal experience, boats are stripped every 20-40 years in Marina del Rey... and not the 7-10 years stated by the Board. I don’t know where they got that number, but it’s way off.

In my own case, I am not planning to strip my boat for another [20+] years, well beyond the 10 year deadline the Board would impose. But under the Amendment, I’m facing paint stripping costs, a doubling of cleaning costs, the annual application for a Waste Discharge Permit at a current cost of \$1,094, . The Board’s Economic Analysis was prepared by someone who clearly doesn’t understand boating in Marina del Rey, or the true costs of this ill-advised regulation.

This regulation will depress boat values and sales, increase slip vacancies, and put boat owners and anchorages under a cloud of legal liability. Marina del Rey was designed as a recreational boat harbor. The Board could ruin that.

- The Board’s Actions Are Illegal

What’s most troubling to me is that an unelected, unaccountable board running rampant over the rights of citizens, over reaching to impose liability in TMDL and create for itself the ability to order remedial action, require permits, impose fines on citizens, harm our local economy and effectively take away our property.

The Board is misusing its power to impose an unfair regulation that is more costly, more burdensome, and much harsher than what was approved for San Diego’s Shelter Island.

The Board has no authority to name “Responsible Parties” in a TMDL. Its actions are outside the law and not authorized by statute or case law.

If this Board can ignore the people, the law, economics, science and common sense, what’s next?

The State Water Control Board should reject the TMDL Amendment.

Sincerely,

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