

Peter Glick
3820 Lyceum Ave.
Los Angeles, CA 90012
PMGlick@gmail.com
310-390-4336



May 13, 2014

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000
By email to: commentletters@waterboards.ca.gov

Re: Proposed amendment to the *Water Quality Control Plan – Los Angeles* (Basin Plan) to revise the Total Maximum Daily Load (TMDL) for Marina del Rey Harbor Toxic Pollutants

Dear Sirs:

I am writing as a long time boat owner in Marina del Rey. I am Vice Commodore of Del Rey Yacht Club, Commodore of the Association of Santa Monica Bay Yacht Clubs, former Commodore of the Yacht Racing Union of Southern California, former Commodore of Santa Monica Windjammer Yacht Club and former Judge Advocate for the Southern California Yachting Association.

I am requesting that the California Regional Water Quality Control Board delay action on amending the amendment to the *Water Quality Control Plan – Los Angeles* (Basin Plan) to revise the Total Maximum Daily Load (TMDL) for Marina del Rey Harbor Toxic Pollutants until a site specific study can be completed. Based on information available to me, I am concerned that this planned amendment is

really only a costly solution seeking a non-existent problem and which solution has no evidence it would even resolve the problem and further has environmental risks.

I am informed and believe that there was insufficient notice of this pending action. As a member of the Del Rey Yacht Club, I have reviewed the notice list from the Water Quality Board and found that roughly one third of the boaters were not on the list.

As a boat owner and leader of boating organizations, I am deeply concerned about the quality of water that we use. Further, if a problem exists and a solution exists to resolve that problem, then I want a public policy and enforcement of that solution. I believe the best example of this was the discontinuance of use by boaters of effective anti-fouling paints, developed in the 1960s, that contained organotin tributyltin (TBT), which has been proven to cause deformations in oysters and sex changes in whelks. I understand that the solution to this discontinuance was the development, as environmentally safe bottom hull paints containing copper.

The representatives of the California Water Quality Control Board who discussed the proposed amendment with the Marina del Rey community explained that the ostensible reason for the amendment to the TMDL, was to facilitate swimming, fishing and mussel gathering in the Marina. These uses are presently illegal or are not what the Marina was designed to be. Further, in light of the Marina housing a fish hatchery, it is unclear how copper presents a risk. Nor is it clear how removal of copper would change swimming.

We are informed that tests have determined that the copper load in the water is in excess of a level of toxicity identified by the EPA as causing distress in sea life. (I understand that the tested sea life are not present in Marina del Rey.) I further understand that utility companies with outflow into South San Francisco Bay found in site specific studies that the EPA level was not in fact toxic. Further we understand that the Scientific Committee on Health and Environmental Risks of the Health and Consumer Protection Directorate of the European Union finding concerning any risk arising from the use of copper-based antifouling paints used in leisure boating concluded that the Dutch risk assessment has not provided sufficient sound scientific evidence to show that the use of copper-based

antifouling products presents significant environmental risks to support the envisaged measure. See, SCHER, *Opinion on risk arising from the use of copper-based antifouling paints used in leisure boating, Dutch notification 2003/0201/NL*, 30 January 2007. As a consequence the Dutch government has withdrawn its plan to end copper bottom paints.

I am informed that there is no base line to determine what is the inherent level of copper. So there is no apparent level to determine what is “natural” for Marina del Rey, other than speculation.

I am further informed that there are no positive studies demonstrating the source of copper in Marina del Rey. We have been informed that two sources were copper in automobile brake linings that have washed into the Marina. I am informed that this source has ended with legislation outlawing copper in brake pads. I understand that it has only demonstrated deductive reasoning that the source of copper is recreational boat bottom paint: that is, bottom paint contains copper, as boats are cleaned the bottom paint is worn off and goes into the water, therefore by deduction the source of copper is bottom paint. The deduction does not identify the quantity or other sources besides brake pads, to wit, copper piping in residential and marine use and copper cooling piping in marine engines.

I have been informed that the solution proposed by the California Water Quality Board is to “reduce boats with copper bottom paint by 85%.” I understand there is no evidence that “reducing” the number of boats with copper bottom paint will result in a reduction of the copper load in the water. The Board has cited the example of reduction found in San Diego. I am informed that Water Quality Board is presently re-examining the result of this experiment. The Los Angeles studies indicate that the load in Marina del Rey is 85% higher than the EPA level, therefore has arbitrarily proposed to set the level of bottoms at 85% without any further study of effectiveness or consideration of the effect of changes due to copper brake pads. There is no imperial evidence that other sources of copper will not maintain the present load level.

There is a further risk to the present proposed amendment. I realize that the California Water Quality Board will and cannot recommend a solution to anti-fouling paint in the absence of copper. However it must recognize that there is no technologically environmentally safe bottom paint on the commercial market. In the absence of being able to identify such a solution, the proposed amendment runs the risk of three unintended consequences.

First, boat owners and the marine industry may develop and use materials that will be environmentally destructive. The best example is the use of paints containing copper in response to the ban on use of bottom paints containing organotin tributyltin.

Next, without a bottom paint that is effective as an anti-fouling, Marina del Rey runs the risk of invasive species. It has been my experience that recreational boats moored in Marina del Rey travel throughout the world. If those boats do not have effective anti-fouling paints, Marina del Rey runs a very real risk that they will return with invasive species on their bottom.

The third unintended consequence will be the change in usage of Marina del Rey. The harbor was created for small recreational boat owners. Boats are movable. I further understand that economic viability of a solution is not in the purview of the California Water Quality Board, but the fact will be if a boater must remove and maintain boats with different bottom paint at a higher cost than at other Southern California Marinas, then rather than incurring those cost they will leave Marina del Rey. This has been demonstrated in Shelter Island in San Diego, where empty slips have been counted as copper free bottoms. In discussions with the marine industry services, I understand that to prepare a boat will be require at least 7 to 10 working days. I understand that the California Water Quality Board wishes to phase in the amendment over an 11 year period (and this is without justification as to why we can wait 11 years to remove such a toxic material). With 4000 plus boats moored in the Marina, it will not be physically realistic to treat all the boats. There is a misconception about boaters that they are affluent. Marina del Rey is one of the few Marinas designed and run for the benefit of the poor and middle class people who enjoy the water. The unintended consequence of the amendment will be to force these people out of boating or to other marinas. Rather than expanding the

use of Marina del Rey as the ostensible reason expressed for the proposed amendment it would end, not expand, the use of the Marina.

Based on a lack of demonstrable evidence and not guess work of how other studies of water environment apply to Marina del Rey, I am requesting that the California Water Quality Board postpone the amendment until a site specific study can be produced demonstrating the toxic effect of the copper level on Marina del Rey and the effectiveness of copper free bottoms on that toxic effect, if it exists. I am asking for a postponement until a study can be completed. I requesting that you include in the amendment a condition that the amendment would be re-visited in the event such a study was produced demonstrating the ineffectiveness of copper free bottom paint. It would be unfair the boat owners who will the costs of \$8,000 for a solution that may not be necessary for a problem that may not exist.

I wish to thank the California Water Quality Board for considering the foregoing.

Again, if you have any questions concerning the foregoing please feel free to contact me.

Sincerely,

Peter Glick

These comments specifically address the final version of the Basin Plan amendment adopted by the Los Angeles Water Board. The Los Angeles Water Board has not previously responded to a similar or identical comment. These comments were timely raised before the Los Angeles Water Board.

Based on information and belief the foregoing is true and correct. Executed under penalty of perjury at Los Angeles, California, the 13th day of May, 2014.

Peter Glick