January 4, 2006

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF WATER QUALITY
JANUARY 13, 2006

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION INCORPORATING A TOTAL MAXIMUM DAILY LOAD (TMDL) FOR TOXIC POLLUTANTS IN MARINA DEL REY HARBOR

DISCUSSION

The Water Quality Control Plan for the Los Angeles Region (Basin Plan) of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) was approved by the Office of Administrative Law (OAL) in 1995.

On October 6, 2005, the Los Angeles Water Board adopted Resolution No. 2005-012 to incorporate a TMDL for toxic pollutants in Marina del Rey Harbor (MDRH). Back basins D, E, and F of MDRH are on the federal Clean Water Act section 303(d) list for copper, lead, zinc, and chlordane in sediment; and Polychlorinated Biphenyls (PCBs) in fish tissue. The TMDL addresses those impairments. Allocations for contributing sources are proposed for storm water National Pollutant Discharge Elimination System (NPDES) permitees and general NPDES permitees, and for nonpoint source direct atmospheric deposition.

This TMDL is prescribed by a March 22, 1999 consent decree (Heal the Bay, Inc. et al. v. Browner, et al. (98-4825 SBA)). According to the consent decree schedule, the U.S. Environmental Protection Agency (USEPA) must approve a TMDL or establish its own by March 22, 2006.

The beneficial uses of concern for MDRH are marine (MAR) and wildlife (WILD), commercial and sport fishing (COMM), shellfish harvesting (SHELL), and water contact recreation (REC-1). Monitoring and assessment of water, sediment, and fish tissue between 1993 and 2004 confirmed that sediment in MDRH was impaired by metals and PCBs in fish tissue are above targets. Water column impairment by copper is uncertain due to uncertainty in water column sample analysis methods. Further monitoring of copper in the water column is needed.

Wet-weather runoff from the storm water conveyance system is assumed to be the major contributor of metals and organic compounds to MDRH. Storm water runoff is regulated through eight NPDES permits including the County of Los Angeles, California Department of Transportation (Caltrans), General Construction, and General Industrial. The sediment loadings of legacy pollutants chlordane and PCBs reflect historic uses that are now banned. Major nonpoint sources of contaminants in MDRH include copper and lead leaching from anti-fouling paint on boats, corrosion of zinc from metal boat components, and atmospheric deposition.

The TMDL is based on pollutant loadings to the sediments of MDRH back basins. The Los Angeles Water Board used numeric targets from sediment quality guidelines compiled from the National Oceanic and Atmospheric Administration (NOAA) to calculate the TMDLs for copper, lead, zinc, PCBs, and chlordane impairments in sediments. The sediment quality guidelines were

used to translate the Basin Plan narrative objectives into numeric targets for the TMDL. Effects Range-Low (ERL) values were selected as numeric targets for sediment rather than Effects Range-Medium (ERM) values to limit adverse effects to aquatic life. ERLs are lower than ERMs and thus provide an implicit margin of safety.

Numeric targets are established for PCBs in fish tissue, the water column, and sediments. The PCB fish tissue target comes from California Toxics Rule (CTR) fish tissue criteria for protecting human health; the water quality target comes from the CTR water criteria for protecting human health; and the sediment target comes from NOAA's sediment quality guidelines. The sediment target for total PCBs is the primary numeric target and is also used to calculate the TMDL and the allocations. Water quality objectives and fish tissue guidelines for total PCBs are secondary targets that will provide additional means of assessing attainment of water quality standards, including the narrative toxicity objective. The final numeric target for total PCBs in the water column is from the CTR Criterion for Protection of Human Health. However, current analytical methods cannot detect concentrations at this low level and, thus, the CTR Chronic Criterion for the protection of aquatic life in saltwater was selected as the interim numeric target.

TMDL allocations include a mass-based load allocation for direct atmospheric deposition; a group mass-based wasteload allocation (WLA) for the Municipal Separate Storm Sewer Systems (MS4), Caltrans, General Industrial, and General Construction permittees; and, concentration-based sediment WLAs for other point sources including minor NPDES permittees and general non-storm water NPDES permittees that discharge to MDRH.

Implementation will be based on a combination of non-structural and structural Best Management Practices (BMPs) that address pollution prevention and/or sediment reduction. Compliance with the TMDL will be determined through sediment and water quality-monitoring programs. The proposed implementation schedule for the MS4 and Caltrans permittees consists of a phased approach, with compliance to be achieved in prescribed percentages of the watershed until the entire watershed meets the WLAs within 10–15 years. TMDL implementation provisions require no specific pollutant reductions from storm water permittees within the first six years, during which period the Los Angeles Water Board will re-assess the MDRH Toxic Pollutants TMDL to consider the results of special studies. Should the Los Angeles Water Board or another responsible jurisdiction or agency determine that toxic pollutants bound in sediments in the harbor are preventing attainment of numeric targets, the Los Angeles Water Board will issue investigatory or cleanup and abatement orders to achieve the numeric targets.

POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan in accordance with the Staff Recommendation below?

FISCAL IMPACT

Los Angeles Water Board and State Water Board staff work associated with or resulting from this action can be accomplished within budgeted resources.

REGIONAL WATER BOARD IMPACT

Yes, Los Angeles Water Board.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Los Angeles Water Board Basin Plan to incorporate a TMDL for toxic pollutants in Marina del Rey Harbor as adopted in Los Angeles Water Board Resolution No. 2005-012 **(Attached)**.

2. Authorizes the Executive Director to transmit the amendment and administrative record for this action to OAL and the TMDL to the USEPA for approval.

D R A F T January 4, 2006

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2006-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION INCORPORATING A TOTAL MAXIMUM DAILY LOAD (TMDL) FOR TOXIC POLLUTANTS IN MARINA DEL REY HARBOR

WHEREAS:

1. On October 6, 2005, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. 2005-012 (Attachment) amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to incorporate a TMDL for toxic pollutants in Marina Del Rey Harbor (MDRH).

2. The Los Angeles Water Board prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.

3. The Los Angeles Water Board found that the additions of this amendment would result in no adverse effect on wildlife, and the amendment would be consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16) and federal antidegradation requirements.

4. Los Angeles Water Board Resolution No. 2005-012 delegated to its Executive Officer authority to make minor, non-substantive corrections to the adopted amendment if needed for clarity or consistency. The State Water Board staff finds that provisions of the amendment, as adopted, warranted minor, non-substantive clarification of the language of various provisions. The Los Angeles Water Board Executive Officer has made the necessary corrections to the amendment.

5. If and when additional water bodies are listed on the 303(d) list due to copper from the use of antifouling paint on boat hulls, the State Water Board expects similar requirements will be imposed upon all such water bodies to the extent similar conditions exist. The TMDL requires further study to assess the contribution of water column discharges to sediment concentrations in the MDRH prior to requiring any action.

6. The State Water Board finds, in view of increasing impairment of coastal marinas from copper-based antifouling paints, that there is a need for statewide consistency in regulation.

7. To the extent that pollutant loadings from indirect atmospheric deposition over land are being conveyed to storm water discharges, these loadings are included in the storm water wasteload allocations. Recent studies have shown that atmospheric deposition of particulates containing trace metals in the urban areas of the Los Angeles Region are a substantial source of metals contaminants on land surfaces. (Sabin et al., 2005)[1.]

[1] Sabin et al. "Contribution of trace metals from atmospheric deposition to stormwater runoff in small impervious urban catchment." Water Research 39 (2005) 3939-3937.

8. The State Water Board encourages local municipalities within the urban watersheds in the Los Angeles Region and Los Angeles County also to work with the South Coast Air Quality Management District and California Air Resource Board to further the identification and control of sources of trace metals in atmospheric deposition.

9. The Los Angeles Water Board will work with municipalities and Los Angeles County to encourage building designs and Best Management Practices (BMPs) that will retain pollutants on site and prevent the conveyance of pollutants from atmospheric deposition and other sources from being washed into storm water and discharged to MDRH and to other urban water bodies.

10. TMDL implementation provisions require no specific pollutant reductions from Municipal Separate Storm Sewer System and California Department of Transportation (Caltrans) storm water permits to be implemented within the first six years, during which the Los Angeles Water Board will re-assess the Marina del Rey Toxic Pollutants TMDL to consider the results of special studies.

11. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans, and section 13242, which requires a program of implementation of water quality standards. The State Water Board also finds that the TMDL as reflected in the Basin Plan amendment is consistent with the requirements of federal Clean Water Act section 303(d).

12. A Basin Plan amendment does not become effective until approved by State Water Board and until the regulatory provisions are approved by Office of Administrative Law (OAL). The U.S. Environmental Protection Agency (USEPA) must also approve the TMDL.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Los Angeles Water Board Basin Plan to incorporate a TMDL for toxic pollutants in Marina del Rey Harbor as adopted in Los Angeles Water Board Resolution No. 2005-012.

2. Authorizes the Executive Director to transmit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval.

CERTIFICATION

The undersigned, Acting Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on January 13, 2006.

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Selica Potter
Acting Clerk to the Board