

SOUTHSHORE

PROPERTY OWNERS ASSOCIATION

January 25, 2013

FAX TRANSMISSION 818/251-2219

Cindy Lin (WTR-2)
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Dear Ms. Lin:

The Southshore P.O.A. writes to express concern for the Total Maximum Daily Loads (TMDLs) being proposed for the Malibu Creek Watershed.

As homeowners who will bear the costs for complying with any new standards, through property taxes and sewer service rates, we raise the following issues:

1. Malibu Creek has unique characteristics.

It is not appropriate to compare Malibu Creek to other fresh water coastal creek systems. Applying freshwater standards to a brackish creek does not make sense. EPA concludes that algae impairs the presence of aquatic insects but fails to recognize that freshwater insects do poorly in non-freshwater stream like Malibu Creek or for a creek that has no water at all over 25% of its length in dry weather periods. EPA should also recognize that the salt impact of the Monterey Formation in the watershed was a key reason why the water district that serves our area was formed in the first place; Malibu Creek is unsuitable as a potable water source, in part because of its salinity. Are we to believe its salinity has no impact on freshwater insects?

2. What if EPA's findings are wrong again?

The unnecessary rush toward adopting a TMDL carries great risk. If the proposed TMDL is adopted, reaching the stated water quality objectives can cost hundreds of millions more beyond what has already been invested. But what happens to the rate-paying and taxpaying stakeholders if EPA's new TMDLs prove ineffective? Countless dollars will have been wasted, causing irreparable harm to the owners of homes and businesses in the region. EPA should only proceed with a TMDL when it can guarantee its regulations will produce the desired result. Anything less shows an irresponsible disregard for the ratepayers who will ultimately bear the costs of yet another failed "experiment." This is not hypothetical. As an example, since 1997, for seven months each year, Tapia's treated effluent has been prohibited from Malibu Creek. Yet, that prohibition has not resulted in quantifiable improvements in water quality. However, customers continue to be saddled with the cost for this compliance measure. As a result of these and other regulations, our sewer service costs are among the highest in the region.

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3. Ratepayers are the true “stakeholders”

While the volunteerism and passion of advocacy groups (NGOs) wanting to protect our environment is appreciated, we residents shoulder the ultimate responsibility for funding the compliance measures they promote. We’re concerned that EPA places an extraordinary focus on recent data compiled by NGOs that support their positions, but EPA ignores data scientifically collected by government agencies over the last four decades. These government entities must follow strict EPA standards for sample collection, laboratory testing and personnel certification; NGOs do not. Once again, ratepayers fund those stringent and scientific government testing programs and we urge EPA to thoroughly consider that information as well, so that the analysis, and any resulting regulations, demonstrate a greater degree of scientific rigor.

For these reasons, the homeowners of Southshore P.O.A. call upon EPA to conduct a scientifically sound evaluation of the Malibu Creek watershed, with appropriate opportunities given to the homeowners and businesses of the region to examine the data and comment on the findings. EPA should not proceed with adopting new, revised, or additional TMDLs until that evaluation is complete.

Sincerely,

Al Miller, President
Southshore P.O.A.