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January 16, 2013

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,

I serve as the President of one of the homeowner associations in the Las Virgenes Metropolitan Water District and am writing to express my concern for the Total Maximum Daily Loads (TMDLs) being proposed for the Malibu Creek Watershed.

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

1. Why is this matter being rushed for adoption?

Regulations that are hurried into place often result in poor policies, wasteful of community resources. In this case, the draft TMDL document was released for review on December 12, 2012, with a deadline for comments set for January 23, 2013. This is not reasonable. Accounting for time lost to weekends and the busy holiday period, the public has been given less than 30 business days to review voluminous material, at a time when most homeowner associations and local government entities do not meet.

2. 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?

3. 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.

For these reasons, I 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,



Susan R. Ellis