

**June 28, 2013**

**USEPA Response to Comments on the Draft Total Maximum Daily Loads for  
Ventura River Reaches 3 and 4**

On December 10, 2012, the United States Environmental Protection Agency (USEPA) solicited public comments on the draft Total Maximum Daily Loads (TMDLs) for Ventura River Reaches 3 and 4. The State of California placed these river segments on its 303(d) list for the impairment of “pumping and water diversions” in 1996. USEPA held a public hearing on the draft TMDLs on January 14, 2013, and accepted public comments through January 25, 2013.

USEPA has determined that it is unnecessary at this time to establish separate TMDLs to address the pumping and water diversion impairment listings for Reaches 3 and 4 of the Ventura River. In Resolution 2013-0005, the State of California has adopted TMDLs to address algae, eutrophic conditions and nutrient impairments in the Ventura River. Today the USEPA is approving these State TMDLs. The State’s TMDLs address the same beneficial uses as USEPA’s draft TMDLs, identify the same stressors as USEPA’s draft TMDLs, were developed with reference to the existing hydrological conditions in the watershed, including pumping and water diversion activities, and provide the same nutrient loading capacities. The State’s TMDLs also apply throughout the Ventura River, its estuary, and all tributaries. USEPA finds that the State’s TMDLs provide equivalent protection of water quality in Reaches 3 and 4 of the Ventura River as USEPA’s proposed TMDLs. Therefore, USEPA is not establishing separate TMDLs to address the pumping and water diversion impairment listings.

In light of this determination, USEPA provides the following responses to the public comments received during the public comment period on USEPA’s draft TMDLs:

**Comments Opposing Establishment of Final TMDLs**

The comments that raised issues with the factual or legal bases for the proposed TMDLs, or which proposed limitations or modifications to the proposed TMDLs, have been addressed by USEPA’s decision to not issue final TMDLs at this time.

**Requests to “Delist” or Retain the Section 303(d) listing for Reaches 3 and 4**

Comments: Some commenters asked USEPA to “delist” the pumping and water diversions impairment for Ventura River Reaches 3 and 4, based on a lack of evidence supporting the original listing in 1996 or because of events that have occurred since the original listing. (Ventura County; Farm Bureau of Ventura County; Rancho Matilija Mutual Water Company; Ventura Water) Two commenters asked USEPA to retain this impairment listing. (Heal the Bay; Santa Barbara Channelkeeper)

Response: The status of the Section 303(d) impairment listing is not within the scope of this TMDL determination. Any changes to the Ventura River listings would have to be initiated through the Los Angeles Regional Water Quality Control Board. The State Water Resources Control Board’s “Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List,” states that interested parties can request that an existing listing be reassessed according to the Policy’s delisting factors.

### **Comments in Favor of Establishment of the TMDLs**

Comments: Commenters support the TMDLs and the inclusion of concentration-based Load Allocations and Waste Load Allocations, targets for dissolved oxygen and algal biomass, and explicit margin of safety. (Heal the Bay; Santa Barbara Channelkeeper)

Response: For the reasons described above, USEPA has determined that it is unnecessary at this time to establish TMDLs for Reaches 3 and 4 of the Ventura River. USEPA expects that the State's recently approved TMDLs will provide equivalent protection of water quality when they are implemented.

Comments: The TMDLs will not fully address the impairment due to pumping and water diversions. Commenters urge USEPA to explicitly state this in the TMDL. Better water quality doesn't ameliorate the issue of low flows. Reduced surface flow limits the extent of cold water habitat and impairs contact and non-contact recreation uses. Groundwater pumpers are not listed as responsible parties. Adoption of a TMDL that claims to address pumping and water diversions could hamper efforts to effectively address issues associated with low flows. (Heal the Bay; Santa Barbara Channelkeeper)

Response: The proposed TMDLs were directed at water quality problems associated with nutrient loadings in Reaches 3 and 4 of the Ventura River. USEPA acknowledges that the proposed TMDLs were not expected to address all issues in Reaches 3 and 4 of the Ventura River that might be associated with pumping and water diversions.

### **Comments Requesting Other USEPA Action**

Comments: USEPA should provide additional detailed recommendations for additional flow recovery efforts. USEPA's list of recommendations in the TMDL should include a program to preserve minimum base flows, action plans to address fish stranding and recreation, real-time monitoring of flows and diversions, and water conservation and efficiency programs. (Heal the Bay; Santa Barbara Channelkeeper)

Response: USEPA agrees that establishment of TMDLs would not adequately address all aquatic impacts that are related to pumping, diversions and flows in the Ventura River. However, recommendations for flow recovery efforts are not within the scope of USEPA's TMDL analysis, or our determination that separate TMDLs are not necessary for Reaches 3 and 4 at this time.

Comment: USEPA should engage and collaborate with other agencies to complete a comprehensive assessment of pumping impacts and devise a plan. (Association of California Water Agencies; Farm Bureau of Ventura County; Heal the Bay; Santa Barbara Channelkeeper) USEPA should use this TMDL concept to initiate a program for stakeholders to develop water balance and operation guidelines. (Ojai Valley Green Coalition)

Response: Prior to issuance of the draft TMDLs, USEPA worked with the LA RWQCB, the commenters, and other stakeholders on a draft Memorandum of Agreement to put in place an alternative program of activities to address the impacts of pumping and water diversions on steelhead trout habitat and other beneficial uses of the Ventura River. This effort ended without success in September 2012. USEPA supports further efforts by the Ventura River stakeholders to comprehensively assess the impacts of pumping and diversion activities and address its detrimental impacts. USEPA believes that the State and

other Federal agencies may be in a better position to lead an assessment and planning process with the involvement of local agencies, water users, nongovernmental organizations, and other stakeholders.