

US EPA ARCHIVE DOCUMENT

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10 UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

14 HEAL THE BAY, INC. and SANTA MONICA  
15 BAYKEEPER, INC., et al.,

16 Plaintiffs,

17 vs.

18 ADMINISTRATOR, United States  
19 Environmental Protection Agency, et al.,

20 Defendants.

Case No. 98-cv-4825 SBA

**NOTICE OF EXTENSION OF  
AMENDED CONSENT DECREE  
DEADLINE**

1 WHEREAS, on March 23, 1999, the Court entered an Amended Consent Decree  
2 resolving the above-captioned lawsuit (Dkt. No. 25, attached hereto as Exhibit A), which sets  
3 forth deadlines for the establishment or approval of Total Maximum Daily Loads (“TMDLs”)  
4 under Section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), by Defendants United States  
5 Environmental Protection Agency, et al. (“EPA”), for waters in the region of the State of  
6 California administered by the Los Angeles Regional Water Quality Control Board (hereinafter,  
7 the “Los Angeles Water Board”);

8 WHEREAS, the Amended Consent Decree incorporates a List of Waters and Pollutants  
9 Covered by the Amended Consent Decree as well as a Schedule for Specified Waters (Exhibit A;  
10 Dkt No. 25, Attachments 2 & 3);

11 WHEREAS, Paragraph 3(c) of the Amended Consent Decree required EPA, by March  
12 24, 2012, to establish a TMDL or approve a TMDL submitted by the State of California, for the  
13 pairings of Water Quality Limited Segments (“WQLSs”) and pollutants listed in attachment 2  
14 (Dkt. No. 25 ¶ 3(c), Attachment 2), subject to any amendments made pursuant to the terms of the  
15 Amended Consent Decree;

16 WHEREAS, on August 16, 2010, the parties submitted to this Court a stipulation to  
17 modify the Amended Consent Decree, which included the removal, substitution and extension of  
18 deadlines until March 24, 2013, for various pairings of WQLSs and pollutants in Attachment 2  
19 of the Amended Consent Decree (Dkt No. 42);

20 WHEREAS, this Court approved the modifications to the Amended Consent Decree on  
21 September 2, 2010 (Dkt No. 43);

22 WHEREAS, in December 2012, EPA issued for public review and comment a draft  
23 TMDL for Ventura River Reaches 3 and 4 for Pumping and Water Diversion-Related Water  
24 Quality Impairments;

25 WHEREAS, in December 2012, the State of California, Regional Water Quality Control  
26 Board, Los Angeles Region, approved a TMDL for the Ventura River, including the estuary and  
27 its tributaries, for Algae, Eutrophic Conditions, and Nutrients;

1 WHEREAS, EPA issued a draft TMDL for Malibu Creek and Lagoon for Sedimentation  
2 and Nutrients to address Benthic Community Impairments for public review and comment in  
3 December 2012;

4 WHEREAS, EPA proposed to approve or establish these TMDLs on or before the March  
5 24, 2013 deadline contained in the September 2, 2010 Stipulation to Modify Amended Consent  
6 Decree and Order Thereon;

7 WHEREAS, the parties have now agreed to a short extension of time to allow for further  
8 discussion of the proposed terms of these TMDLs with stakeholders and to address public  
9 comments on the proposed TMDLs;

10 WHEREAS, Plaintiffs and Defendants agree that the proposed modification below is in  
11 the interest of the public, the parties, and judicial economy;

12 WHEREAS, Paragraph 4 of the Amended Consent Decree states that, “[w]here the  
13 parties mutually consent to any revision of Attachments 2 and/or 3, such revision shall be  
14 effected by written agreement submitted to the Court for approval, except for extensions of sixty  
15 (60) days or less, which revision may be effected by written agreement of the parties and notice  
16 to the Court.”;

17 WHEREAS, Paragraph 20 of the Amended Consent Decree provides that “[a]ny dates set  
18 forth in [the Amended] Consent Decree may be extended by written agreement of the parties and  
19 notice to the Court.”;

20 WHEREAS, the parties have agreed to the substance of this Notice without admission of  
21 any issue of fact or law;

22 NOW THEREFORE, the parties, by and through the undersigned counsel, HEREBY  
23 AGREE, STIPULATE and NOTIFY THE COURT as follows:

24 The deadline for establishing TMDLs, required by the Amended Consent Decree, as  
25 modified by the September 2, 2010 Stipulation to Modify Amended Consent Decree and Order  
26 Thereon, for:

27 (1) TMDL Analytical Unit 88 (Ventura River Reaches 1 and 2 for Algae and the Ventura  
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- 1 River Estuary for Algae and Eutrophic Conditions);  
2 (2) TMDL Analytical Unit 89 (Ventura River Reaches 3 and 4, for Pumping and Water  
3 Diversions);  
4 (3) TMDL Analytical Unit 71 (Malibu Lagoon for Benthic Community Effects);  
5 (4) Malibu Creek for Benthic-Macroinvertebrate Bioassessments; and  
6 (5) Malibu Creek for Sedimentation/Siltation,

7 is extended from March 24, 2013, to May 23, 2013. This agreement is limited to the specified  
8 TMDLs and does not affect or set a precedent for any other deadlines under the Amended  
9 Consent Decree.

10 FOR PLAINTIFFS:

STEVE FLEISCHLI  
Attorney for Heal the Bay and Santa Monica  
Baykeeper

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12 DATED: March 18, 2013

/s/ Steve Fleischli (with permission)  
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16 FOR DEFENDANTS:

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19 DATED: March 22, 2013

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