

US EPA ARCHIVE DOCUMENT

29438 Mulholland Hwy.  
Agoura, CA 91301

21 January 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:

We, as the ratepayers and stakeholders within the Las Virgenes Municipal Water District (LVMWD), write this letter to express concerns for the Total Maximum Daily Loads (TMDLs) being proposed for the Malibu Watershed.

As one of hundreds of homeowners in this Malibu Watershed area serviced by the LVMWD, we and our neighbors will bear the costs for complying with any new standards, through property taxes and sewer service rates. We raise the following issues for your consideration:

(a). As ratepayers, we have no assurances nor guarantees that the proposed TMDL will work. The EPA states the goals of the 2003 Nutrient TMDL have been met, **but now** says they are not adequate to address the continuing presence of algae. EPA makes this finding **after our community has invested more than \$10 Million** to meet the 2003 standard. **In light of this finding, what can the EPA produce to convince us and the other rate-payers that its 2012 proposal will be any more effective?** Continual revision to more stringent TMDLs may require an agency, city, or community to tear out infrastructures that were just constructed to meet the previous standard. It appears to us that a "Trial and Error" approach is a costly and wasteful practice when it comes to projects of this magnitude with no guarantees. Please keep in mind that **all homeowners, cities and agencies are facing difficult economic times and, therefore cannot to pursue expenditures that have no guaranteed viable returns.**

(b). The EPA appears to be bent on the adoption of this proposal quickly and quietly. Why was the notice of this proposal and the need for the public's response timed so poorly? That is, it was published on 12 December 2012 with a response deadline of 23 January 2013, a time period coinciding with the year's largest holiday season. This practice is typical whenever a proposal needs to be "snuck past" the public; in this case the rate-payers. A clever end-run game the EPA is playing.

Regulations that are hurried into place often result in poor policies, wasteful of community resource, not to mention the increase in costs. In this case, the January 23<sup>rd</sup> deadline for the public to respond to the draft TDML is not reasonable since this is a poor

time frame wherein individuals are busy with holiday tasks on their minds, and public organizations such as Homeowners Associations and agency boards more than likely have cancelled their December – January meetings. This response time is less than 30 days to review the “voluminous” materials.

If the EPA is serious about having the public provide inputs, both for and against, then they should extend the deadline as good faith and integrity.

(c). Now, let us take a good look at the Malibu Creek which prized as a local “clear stream”. It 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. The EPA concludes that algae impairs the presence of aquatic insects but fails to recognize that freshwater insects do poorly in non-freshwater streams like Malibu Creek, or for a creek that has no water at all over 25% of its length in dry weather periods. As a case in point of the latter, we have such a blue-line stream our area. It is called **Triunfo Creek** and it empties into **Malibou Lake** which in turn flows into **Malibu Creek**, which flows to the Pacific Ocean via the **Malibu Lagoon**.

The EPA should also recognize that the salt impact of the Monterey Formation in the watershed was a key reason why the water district (LVMWD) 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?

**A major concern is the unnecessary rush toward adopting a proposed TMDL** that potentially carries great risk. If the proposed TMDL is adopted, reaching the stated water quality objectives, it can cost hundreds of millions more beyond what has already been invested by the rate-payers, tax payers, and state holders. But what happens to us if the EPA’s new TMDL proves ineffective? Do we end up holding another “empty bag” whose contents were eaten again by the “alligator”?

The public, various Homeowners Associations, and agencies must be given more time to study and analyze this new TMDL proposal for realistic objectives, costs and risks before its adoption.

Thank you,

Sincerely,



Chester & Joan Yabitsu